

# EXHIBIT H

1 UNITED STATES BANKRUPTCY COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X  
4 SECURITIES INVESTOR PROTECTION :  
CORPORATION, :  
5 Plaintiff-Applicant, :  
6 -vs- : 08-01789 (SMB)  
7 BERNARD L. MADOFF INVESTMENT :  
SECURITIES, LLC, :  
8 Defendant. :  
9 -----X

10 In re: :  
11 BERNARD L. MADOFF, :  
12 Debtor. :  
13 -----X

14 \*\*\* CONFIDENTIAL \*\*\*  
15 DEPOSITION OF BERNARD L. MADOFF

16 (Taken by the Customers)

17 Butner, North Carolina

18 June 15, 2016

19  
20  
21  
22  
23  
24 Reported by: Lisa A. DeGroat, RPR  
Notary Public  
25

A P P E A R A N C E S

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Robert Collier

CONFIDENTIAL DEPOSITION OF BERNARD L. MADOFF,  
taken by the Customers, at the Federal Correctional  
Institution, Butner Medium I, Old NC Highway 75,  
Butner, North Carolina, on the 15th day of June,  
2016, at 8:50 a.m., before Lisa A. DeGroat,  
Registered Professional Reporter and Notary Public.

## C O N T E N T S

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Madoff For Identification

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1 (MADOFF EXHIBIT 1 WAS MARKED FOR  
2 IDENTIFICATION.)

3 \* \* \* \* \*

4 THE VIDEOGRAPHER: We are now on the  
5 record.

6 Please note that the microphones are  
7 sensitive, and they pick up whispering and  
8 private conversations. Please turn off all  
9 cellphones or place them away from the  
10 microphones, as they can interfere with the  
11 deposition audio. The recording will continue  
12 until all parties agree to go off the record.

13 My name is Bob Collier, representing  
14 Veritext Legal Solutions. Today's date is  
15 June 15th, 2016, and the time is approximately  
16 8:50 a.m.

17 This deposition is being held at the  
18 Federal Correctional Institute, Butner,  
19 Medium I, located at Old Highway 75, Butner,  
20 North Carolina.

21 The caption of this case is In re:  
22 Securities Investor Protection Corporation,  
23 Plaintiff-Applicant -v- Bernard L. Madoff  
24 Investment Securities, L.L.C., Defendant; in re:  
25 Bernard L. Madoff, Debtor.

1 This case is being held in the  
2 United States Bankruptcy Court, Southern  
3 District of New York. Case number 08-017889  
4 (SIC) (SMB). The name of the witness is  
5 Bernard L. Madoff.

6 At this time the attorneys present in  
7 the room and everyone attending remotely will  
8 identify themselves and the parties they  
9 represent.

10 MS. CHAITMAN: Helen Davis Chaitman, of  
11 Chaitman, L.L.P., on behalf of a large number of  
12 Madoff customers.

13 MR. DEXTER: Greg Dexter, Chaitman,  
14 L.L.P. I'm here with Helen Chaitman,  
15 representing a large number of Madoff customers.

16 MS. BROWN: Seanna Brown, on behalf of  
17 Irving Picard, trustee.

18 MS. VANDERWAL: Amy Vanderwal, on  
19 behalf of the trustee.

20 THE VIDEOGRAPHER: Our court reporter,  
21 Lisa DeGroat, representing Veritext Legal  
22 Solutions, will swear in the witness. Then we  
23 can proceed.

24  
25 \* \* \* \* \*

P R O C E E D I N G S

Whereupon,

BERNARD L. MADOFF,

having been duly sworn,

was examined and testified as follows:

DIRECT EXAMINATION BY COUNSEL FOR CUSTOMERS

BY MS. CHAITMAN:

Q. Good morning, Mr. Madoff.

A. Good morning.

Q. I'm going to be asking questions initially.

This deposition has been ordered by Judge Bernstein to be limited to the issue of profit withdrawals that were generated by the trading strategy that you had in the 1980s and into the 1990s, where you were investing in subordinated convertible debentures.

A. Uh-huh.

Q. And the judge has ordered that your testimony be limited to that subject, and I would appreciate if you would do so.

A. Uh-huh.

Q. Thank you.

MS. BROWN: Helen, before you begin, can I put the other orders on the record?

MS. CHAITMAN: I'm sorry. I --

MS. BROWN: That's okay.

1 MS. CHAITMAN: Yeah, I forgot.

2 MS. BROWN: That's okay.

3 Mr. Madoff, before we go any further, I  
4 do want to tell you today about several  
5 protective orders that govern the overall  
6 bankruptcy case and the specific deposition.

7 The first is the litigation protective  
8 order, which governs the entire bankruptcy.  
9 And, Mr. Madoff, I have provided you a copy of  
10 that order before we began here today.

11 Could you confirm that you have signed  
12 the litigation protective order?

13 THE WITNESS: Yes, I did.

14 MS. BROWN: Thank you.

15 And, as Ms. Chaitman just mentioned,  
16 there is a second protective order that governs  
17 this specific deposition. The order has been  
18 marked as Madoff Exhibit 1, and, as Ms. Chaitman  
19 indicated, the bankruptcy court gave permission  
20 for this deposition to go forward with certain  
21 limitations. That order bears the docket number  
22 13060.

23 The deposition must be limited to  
24 profit withdrawal transactions and the issues  
25 related to that -- to those transactions, and



1 none of the counsel here today are permitted to  
2 go outside the scope of the profit withdrawal  
3 issue.

4 And, specifically, counsel is not  
5 allowed to ask you any questions about  
6 Mr. Jeffry Picower or any of his accounts.

7 I am also required to instruct you,  
8 Mr. Madoff, that your testimony must be limited  
9 to BLMIS's profit withdrawal transactions, and  
10 you're not permitted to testify about any other  
11 issues.

12 Do you understand those limitations?

13 THE WITNESS: Uh-huh, yes.

14 MS. BROWN: And before we go any  
15 further, I'd also like to note for the record  
16 that the order permitting this deposition to go  
17 forward states that the entire transcript of  
18 Mr. Madoff's deposition is confidential and  
19 shall remain under seal for 60 days or the day  
20 after a final non-appealable order is entered  
21 concerning any alleged or actual violations of  
22 the order limiting this deposition.

23 And the order further states that the  
24 court may impose sanctions upon any person or  
25 entity that violates the protective order that's

1 marked as Madoff Exhibit 1.

2 Thank you.

3 (MADOFF EXHIBIT 2 WAS MARKED FOR  
4 IDENTIFICATION.)

5 BY MS. CHAITMAN:

6 Q. Okay. Mr. Madoff, I'd like to show you  
7 what I've marked as Madoff Exhibit 2. Is that your  
8 signature on page three?

9 A. Yes.

10 Q. And do you recall signing this Declaration?

11 A. Yes.

12 Q. Now, if you'd just look at paragraph two.  
13 I just want to read this into the record.

14 It says, "In the investment advisory  
15 business stockbrokers do not send checks to  
16 customers unless they specifically request a  
17 withdrawal. In fact, I cannot recall a single  
18 instance in my career where I sent a check to a  
19 customer that did not request it."

20 "Sometimes the requests would be for a  
21 quarterly payment of a fixed amount, like \$25,000.  
22 Sometimes I would receive a request for a large  
23 withdrawal, such as \$250,000, but I cannot ever  
24 recall sending a check to a customer who did not ask  
25 for a withdrawal."

1 Is that still your testimony?

2 A. That is. I assume when you're stating,  
3 "I," you're referring to the firm.

4 Q. Yes.

5 A. Okay.

6 Q. Yes. But that -- that is accurate today?

7 A. Yes, it is.

8 Q. Okay. And paragraph three reads,  
9 "Moreover, there were no recorded phone lines in the  
10 1990s. Hence, we did not accept verbal instructions  
11 from customers. If they wanted withdrawals, they  
12 had to specifically request them in writing, and we  
13 retained copies of all such requests in our customer  
14 files."

15 "If there are no such requests in our  
16 files, that indicates that the customer did not  
17 request any withdrawals and would not have received  
18 any checks."

19 Is that still true in your --

20 A. Yes.

21 Q. Okay. Now, do you recall any instance when  
22 there was a loss of customer files within your  
23 office?

24 A. A loss of customer files? I really didn't  
25 keep the files themselves. I mean, I was not

1 responsible for that. So, you know, it's possible,  
2 but, you know, I doubt it.

3 Q. Were your instructions to your staff to put  
4 letters from customers requesting withdrawals in the  
5 customers' files?

6 A. Yes. That's what --

7 Q. Do you recall ever being told that any of  
8 those letters had been misplaced or lost?

9 A. No, I do not.

10 Q. And at the time that the trustee was  
11 appointed, do you have any reason to believe that  
12 those files were not intact?

13 A. No.

14 Q. Now --

15 A. Well, let me correct something.

16 Q. Sure.

17 A. I mean, there is -- there's a six year  
18 record required -- record-retention requirement in  
19 the securities industry. So there was a -- a period  
20 of time when the records might have been destroyed  
21 once they went past that period of time, you know.

22 You know, that's something that, you know,  
23 I -- I was not in charge of. So, you know, I paid  
24 no attention to that. That was under the -- usually  
25 the supervisor's jurisdiction.

1 Q. Okay. But if, for example, there were  
2 letters from customers dating from the 1980s in some  
3 of the files, would you agree that there was no  
4 policy to destroy letters from a certain period of  
5 time?

6 A. Well --

7 MS. BROWN: Objection.

8 THE WITNESS: You know, as I said, I --  
9 I don't know -- to my -- to my -- my  
10 recollection was that there were routine  
11 destruction of records after -- you know, after  
12 a certain number of years, because, you know,  
13 we -- we would have filled up, you know, an  
14 impossible amount of space retaining all the  
15 records.

16 So I -- you know, I -- as a general  
17 rule, we kept customer records going back longer  
18 than the six year period, because customers  
19 typically needed to refer to records or their  
20 accountants needed to refer to records to get  
21 cost basis and things of that sort.

22 So customer records were kept longer  
23 than counterparty records, like other  
24 broker-dealers. As a matter of fact, the  
25 industry had a practice of not requiring any

1 hard copy to be -- to be kept of any records as  
2 long as the records could be reduced -- could be  
3 produced within 40 -- 48 hours for an  
4 examination, because it was an -- it was an  
5 impossible task for firms to maintain all -- all  
6 their records.

7 BY MS. CHAITMAN:

8 Q. So is it fair to say that either the  
9 records were maintained on computer or they were  
10 maintained in paper files?

11 A. Yes.

12 Q. Okay. So when you say that the records  
13 would be destroyed, they would actually just be  
14 digitized for computer storage; is that right?

15 A. I believe that's the case. Yes.

16 Q. Okay. Now, when new customers came to you  
17 at the inception of the relationship, did you -- did  
18 you similarly require that any requests for  
19 withdrawals be put in writing?

20 A. Yes.

21 Q. And they would have to be signed by the  
22 customer?

23 A. Yes.

24 Q. Do you recall a customer named Aaron  
25 Blecker, B-l-e-c-k-e-r?

1 A. The name sounds familiar, but, you know, I  
2 can't -- I can't tell you exactly.

3 Q. Right. I understand. You had a lot of  
4 customers.

5 He -- he was married to a woman named Sofie  
6 Blecker, and he first opened an account in 1981, and  
7 he had accounts through December of 2008. And do  
8 you recall -- you don't recall him?

9 A. Not particularly.

10 (MADOFF EXHIBIT 3 WAS MARKED FOR  
11 IDENTIFICATION.)

12 BY MS. CHAITMAN:

13 Q. Okay. Let me show you what I've marked as  
14 Exhibit 3. I apologize for the copy, but this is  
15 one of those records that was stored on computer,  
16 and this is the best we have.

17 A. Uh-huh.

18 Q. So this is a statement, dated August 31,  
19 1984 for Arthur and Sofie Blecker, and it -- it  
20 appears to be New York -- oh, no. Let's see where  
21 the account number is. Can you tell me, do you see  
22 the account number on this?

23 A. Yeah.

24 Q. Where is it?

25 A. Where is the account?

1 Q. The account number. Where --

2 A. Oh, 0 -- 1002151-0.

3 Q. Okay. And do you recall what the 1-0  
4 indicated?

5 A. No.

6 Q. Okay. This is as of August 31, 1984.

7 A. Okay.

8 Q. Okay. Can you -- are you able to -- to --  
9 I'd like to go through line by line on this  
10 statement, and I'd like you to explain to me what  
11 the statement reflects as to the transactions in the  
12 account.

13 If we start with the first line, it looks  
14 like the balance forward is \$183,004.83. Can you  
15 make that out?

16 A. Yes.

17 Q. Okay. And then on August 23rd, it's -- it  
18 looks like under the column, "Long" --

19 A. Uh-huh.

20 Q. -- there are 4,700 shares of Household  
21 International, Inc.; is that right?

22 A. Correct.

23 Q. And those were received; is that right?

24 A. Correct.

25 Q. And do you recall why that wouldn't have a



1 dollar amount as a credit to the account?

2 A. It -- received has a -- wait. There is no  
3 dollar amount next to received. That's just a -- an  
4 entry of receiving the securities into the account.

5 Q. What does that mean, though?

6 A. The securities were delivered and received  
7 either from conversion or from -- it had to be from  
8 conversion for this type of an account.

9 So the -- these are arbitrage accounts,  
10 where the client buys a security, sells a related  
11 security to that. In fact, they buy a convertible  
12 bond. Then they sell the stock or they provide  
13 convertible preferred and sell the stock short  
14 against the box.

15 Then when that transaction is closed out,  
16 the security would be received. It would either be  
17 received from the conversion agent or the bank or  
18 whoever. That's why there's no dollar amount on the  
19 received. That just means the account was credited  
20 with the physical securities.

21 Q. But isn't that an asset that belongs to the  
22 account --

23 A. Yes.

24 Q. -- holder?

25 A. Yeah.

1 Q. And so then why wouldn't the value of the  
2 asset be reflected in the credit column?

3 A. It just isn't. It's not the common  
4 practice to receive that. You know, at least not in  
5 our booking procedure. Remember, this is movement  
6 of -- of the securities.

7 Dollar amounts only, you know, hit the  
8 account when there's actually money movement, not  
9 physical securities movement. The valuation of  
10 the -- of this -- the securities that are in the  
11 account would be at the end of the month. Usually  
12 there's a valuation.

13 Q. I see. But this statement is 8/31/84. So  
14 it was the end of August 1984?

15 A. Well, 8/23 would not be --

16 Q. Oh, I see. Yeah.

17 (DISCUSSION HELD OFF THE RECORD.)

18 THE WITNESS: 8/23 would not be the end  
19 of the month.

20 BY MS. CHAITMAN:

21 Q. Okay. But if the statement is as of 8/31,  
22 wouldn't there then be another line, which would be  
23 8/31, and it would have the value of those shares?

24 MS. BROWN: Objection.

25 THE WITNESS: Only if the account was

1 long those securities at the end of the month.

2 BY MS. CHAITMAN:

3 Q. Okay. Okay. So let's take the next line.  
4 August 23rd. 2,056 shares were received. So that's  
5 the same thing we just talked about; right?

6 A. Correct.

7 Q. And then the next line says, "August 23rd,  
8 Household International, Inc., preferred  
9 convertible;" is that -- what is that --

10 A. Convertible preferreds. A convertible  
11 preferred -- preferred security. Where it says,  
12 "delivered."

13 Q. Right.

14 A. Okay. That was the -- if you add them up,  
15 you're going to get the same amount of -- I can't  
16 read this thing.

17 Q. It says, "4,504." You're short 4,504?

18 A. Right.

19 Q. So you're long 4,700 and 2,056, and you're  
20 short 4,504?

21 A. Uh-huh, because they're -- they're two  
22 different securities. The Household --

23 Q. Okay.

24 A. One is the common, which is the first  
25 lines, which must have been short. And the -- the

1 4,500, it says -- if you look at the next line,  
2 "Convertible preferred."

3 Q. Okay.

4 A. Those -- those were -- you know, those were  
5 the securities that were convertible.

6 Q. Okay. But isn't the 4,504 in the short  
7 column, so weren't -- weren't -- wasn't the account  
8 long, the first two lines?

9 A. Yeah. It -- it was received into the  
10 account. At that moment, 8/23, the account would  
11 have been long. That -- and it would have been --  
12 would have been short the second line.

13 If there's no money movement -- if there's  
14 no money stated there, those are just the security  
15 movements in the account.

16 Q. Okay. So the first two lines, just to be  
17 clear, 4,700 and 2,056, you're long for Household  
18 International, Inc.?

19 A. Right.

20 Q. And the third line, you're short for the  
21 convertible preferred?

22 A. That's correct.

23 Q. Okay.

24 A. Or it -- that's right.

25 Q. And then underneath, in the next column, on

1 the first two lines it says, "Received;" right?

2 R-e-c-d --

3 A. Right.

4 Q. -- is received?

5 And the third line, which is where you're  
6 short, it says, D-e-l-v?

7 A. Delivered. Correct.

8 Q. Delivered. What is the difference between  
9 received and delivered?

10 A. One is you're -- you're crediting the  
11 account. One is you're debiting the account. In  
12 other words, if you're -- when you're doing a  
13 convertible -- when you're doing an arbitrage  
14 security, you -- the account originally -- you'd  
15 have to look at what happened the previous --  
16 previous period.

17 You would -- one would have been long --  
18 long, and one would have been short. Then once the  
19 conversion is made or the -- or the transaction is  
20 closed out, then the accounts get debited and  
21 credited by the -- by the movement of the securities  
22 in the account.

23 Q. Okay. So the next line, 8/20 -- okay. So  
24 I -- I apologize, this is so hard to read, but  
25 the -- if you look at the top column, it says, T,

1 dash, D. Is that time-date or -- do you see -- can  
2 you see that?

3 A. Yeah.

4 Q. What is -- do you know what that is?

5 A. Trade date, settlement date, it looks like.

6 Q. Oh, perfect. Okay. So trade date,  
7 settlement date. I got it. That's helpful. Okay.  
8 So now if we go to the trade date, 8/20, and then  
9 the settlement date, 8/27, it looks like there's  
10 3,159 shares of Katy --

11 A. -- Industries.

12 Q. -- Industries?

13 A. Right.

14 Q. Okay. And so that's an asset that's in the  
15 account, right, because there's a --

16 A. It was bought.

17 Q. Oh, it --

18 A. It was purchased on that date.

19 Q. It was purchased. So there's a debit,  
20 because you have to pay for the shares?

21 A. Correct.

22 Q. Got it. Okay. So the next line is 8/21.  
23 It's -- the account is short 2,100 shares of Katy  
24 Industries; right?

25 A. Correct. It's -- it's the common being

1 sold. The first purchase that you're referring to  
2 was convertible preferred of the Katy Industries.

3 So you understand that?

4 Q. No.

5 A. In other words --

6 Q. Sorry. If you just took those -- the first  
7 two lines on the Katy Industries, just --

8 A. Okay. That's --

9 Q. Explain what's happening.

10 A. On 8/27, you know, there were -- they  
11 bought the Katy Industries preferred, convertible  
12 preferred. And then on 8/21, the next day, they  
13 sold common shares that the convertible would have  
14 been -- that the convertible preferred would have  
15 been convertible into.

16 Q. Okay.

17 A. That was sold short --

18 Q. Right.

19 A. -- against the convertible preferred.

20 Q. Okay.

21 A. And then the next typical practice would be  
22 either the securities would be reversed, which would  
23 mean they would be -- you'd buy one and sell the  
24 other to cover the long or the short, or you would  
25 physically convert it, you know, through the

1 conversion agent. And you would get -- eventually  
2 get -- the common would deliver out against the  
3 short.

4 Q. Okay. So where it says there's -- if we  
5 look, it says 8/23 and then 8/28, and that's the  
6 line that says, "Katy Industries, Inc.," and it  
7 seems to say, "Journal," on that line.

8 A. 8/23 is Household Finance.

9 Q. The -- yeah, but if you go down further --

10 A. You're talking about 8/21?

11 Q. 8/21, and then the one beneath it with --

12 A. Is also 8/21.

13 Q. Okay.

14 A. I don't see any 8/23 --

15 Q. Okay.

16 A. -- for Katy Industries.

17 Q. Okay.

18 A. You're confusing the two --

19 Q. Okay.

20 A. -- transactions.

21 Q. All right. So where it says, J-r-n-l, do  
22 you see that entry?

23 A. Journal.

24 Q. Journal. So that's a long -- that's --  
25 that goes on the line where it says, "Katy



1 Industries, Inc." What -- and then it's \$4.92  
2 credit. What does that mean?

3 A. Fractional shares. In other words, there's  
4 a -- there -- there's a leftover portion of shares  
5 of the transaction that journaled over. In this  
6 situation it was credited to the account.

7 Q. Okay.

8 A. It's showing it was a credit.

9 Q. Okay.

10 A. It's like the odd lot amount of the shares  
11 of the transaction.

12 Q. Okay. So if we look at the credit column,  
13 we started out with \$183.04 for a -- \$183,004.83; do  
14 you see that?

15 A. Right.

16 Q. And then we ended up with \$186, I think.

17 MS. BROWN: I think it's eight.

18 THE WITNESS: 183,000.

19 MS. CHAITMAN: 188,823.37; right?

20 188,823.37; can you see that?

21 THE WITNESS: End of -- well, one of  
22 them you're looking at is -- is the value of the  
23 positions. That's the value of the positions  
24 after it's market to market. So don't confuse  
25 that one.

1                   When you say -- I'm not sure I  
2           understand what you're saying.

3   BY MS. CHAITMAN:

4           Q.     Okay. If you take the line -- you -- the  
5   balance forward is 183,004.83; you see that under  
6   the credit line at the top?

7           A.     Right.

8           Q.     And then the new balance is 188,823.37;  
9   right?

10          A.     183?

11          Q.     188 --

12          A.     It -- I --

13          Q.     It looks like 188 --

14          A.     I show the position -- I show a value of  
15   183,117.42 on the credit side.

16          Q.     Oh, I see. All of the way down?

17          A.     Right.

18          Q.     Okay. See this line here, where it says,  
19   "New balance"?

20          A.     Uh-huh.

21          Q.     What -- what -- what does that represent?

22          A.     That's the money balance in the account  
23   from the transactions above that line.

24          Q.     Okay.

25          A.     The balance that you're referring to at the

1 end is the securities -- it says, "Security  
2 positions."

3 Q. Right.

4 A. Okay. That's the value of the account that  
5 was long, which was only long to Katy Industries,  
6 preferred and common.

7 Q. Okay. So does this show that in this month  
8 this account appreciated in value?

9 A. Well, if you look at the opening balance --  
10 it would be easier if you -- if you had a better  
11 copy.

12 Q. I know. I'm so sorry. It's going to get  
13 better. I do have better ones after this.

14 To me it looks like 183,004.83 is the  
15 opening balance.

16 A. Right. Okay. That's the opening balance.  
17 It's the balance forward.

18 Q. Right.

19 A. That's the opening balance always. The new  
20 balance at the end is 188,823.37. That's the cash  
21 balance in the account. It went up from 183 to 188.

22 Q. Okay.

23 A. Which would have been the profit made in  
24 those transactions.

25 Q. Okay.

1           A.       Then when you go down to the security  
2       positions, you know, at the bottom, you're getting a  
3       market value of those -- of that what's long in the  
4       account, which is only referring to the Katy  
5       Industries, which is only your long and short.

6                    So I think the question you're asking was,  
7       how did the account -- cash balance appreciated from  
8       183 to 188. All right. Roughly 5,000 --

9           Q.       Right.

10          A.       -- dollars.

11          Q.       Right.

12          A.       That's the cash balance in the account.

13       And then you would have to take the -- the  
14       difference between the long and short positions in  
15       the account after the market to market, which would  
16       be basically 5,000 -- 5,705, it looks like.

17          Q.       Okay.

18          A.       The account would have appreciated by those  
19       amounts.

20          Q.       By the 5,705?

21          A.       Yeah, but one is -- one is actual cash  
22       balance in the account. The other one is the value  
23       of the --

24          Q.       Securities?

25          A.       -- securities.

1 MS. CHAITMAN: Okay. Great. Thank you  
2 so much.

3 Okay. We're doing the same exercise,  
4 but this document is a slight improvement, and I  
5 think we gradually get better.

6 (MADOFF EXHIBIT 4 WAS MARKED FOR  
7 IDENTIFICATION.)

8 BY MS. CHAITMAN:

9 Q. I've just handed you what's been marked as  
10 Madoff Exhibit 4.

11 A. This is better.

12 Q. A little bit better, isn't it?

13 A. Oh, okay. Sorry. Okay. All right.

14 MS. BROWN: Do you have one more copy  
15 for Amy?

16 MS. CHAITMAN: Oh, I'm sorry.

17 BY MS. CHAITMAN:

18 Q. Okay. So we're looking at a statement,  
19 which is, again, Arthur and Sofie Blecker. It's  
20 dated December 31, 1985.

21 A. Uh-huh.

22 Q. And it's for the same account, 215-1-0. So  
23 just, if you could, do -- do the same thing for me.  
24 Just take me through this, so that I can understand  
25 exactly what happened in this period of time, which

1 is December of '85.

2 A. All right. It's showing that an opening  
3 balance -- well, it's not an opening balance. Let's  
4 see where the opening balance is. Balance forward  
5 is -- here it is.

6 It's \$288,445 -- or 446.44. That's the  
7 balance forward from the prior month, but you skip  
8 from -- this one is eight, and then you went from  
9 eight to twelve. So --

10 Q. Right. We didn't have the interim ones.

11 A. Okay.

12 MS. BROWN: You skipped years as well.

13 MS. CHAITMAN: Wait. Hold on. '84 to  
14 '80 -- yes. You're right. '84 to '85. These  
15 were the only statements that were produced to  
16 us.

17 BY MS. CHAITMAN:

18 Q. So, if you could, just go through --

19 A. It would be the same thing. You --  
20 you're -- you're selling -- you're selling, it looks  
21 like, Woolworth. I can't read it, but it looks like  
22 you're -- the account opened with a balance of  
23 288,000 some odd dollars.

24 Q. Right.

25 A. Then certain securities, number of shares,

1 3,892 shares were delivered into the account of the  
2 convertible preferred. Then you had -- it was the  
3 same thing.

4 Received of -- of the common shares after  
5 the conversion. And there's no money -- no money  
6 entries in that, because it was just physical  
7 movement of securities.

8 And you had the same thing with this  
9 Wetterau, same types of transactions. And you have  
10 a -- there you have on 12/20, trade day 12/30.  
11 Settlement, you have actual money balances moving  
12 from the sale of the -- of the common and the  
13 journal for another fractional shares of 21 some odd  
14 dollars, and a new balance of 298,838.

15 And then when you go down to, "Security  
16 positions," you're seeing the -- the market value of  
17 the -- of the long and short positions in there.

18 MS. CHAITMAN: Okay. Thank you.

19 (MADOFF EXHIBIT 5 WAS MARKED FOR  
20 IDENTIFICATION.)

21 MS. CHAITMAN: I'm going to show you  
22 now what we've marked as Exhibit 5.

23 BY MS. CHAITMAN:

24 Q. So this -- the last one we looked at was  
25 12/31/85, and this is 6/30/86.

1 A. Okay.

2 Q. So you bought the --

3 A. Interco.

4 Q. Yeah.

5 A. Uh-huh. Same type of transaction.

6 Convertible preferred.

7 Q. Right. So you have a debit of 277 --

8 A. Uh-huh.

9 Q. -- 309?

10 And then you were short the securities?

11 A. Right. Sold the securities short. Right.

12 For 283,000 some odd dollars.

13 Q. Right.

14 A. Then there's a receive and deliver of GTE,  
15 which must have been -- the account must have been  
16 long and short the previous month coming in. It's  
17 physical movement of securities.

18 Then later on there's a -- a journal of  
19 fractional share of \$14.

20 Q. Uh-huh.

21 A. I'm assuming that there was -- that the GTE  
22 was related to the Interco. That must have been  
23 a -- a merger or something that they exchanged those  
24 securities. It's hard to tell until I look at --  
25 unless you had the --



1 Q. The previous one?

2 A. -- the previous position.

3 Q. Right, right.

4 A. No. Actually, it wouldn't have anything to  
5 do with it. It would -- yeah, you must be long and  
6 short the GTE in the previous month. The Interco --  
7 because here is -- the Interco is -- you have both  
8 sides. You have the sale of the common of -- and  
9 you have the -- the purchase of the preferred.

10 Q. So -- so basically -- forgive me if I sound  
11 dumb about this, but you were buying a subordinated  
12 convertible --

13 A. That's convertible into -- when you -- you  
14 have a convertible bond or a convertible preferred.  
15 Those securities are convertible into common shares  
16 of the company.

17 You know, you're obviously buying -- the  
18 idea is to buy the convertible security, which  
19 either is a preferred or a convertible bond that is  
20 convertible into a related number of common shares.

21 You buy the -- the purchase price of the --  
22 either the preferred or the -- or the bond would be  
23 lower than the sale price of the common, and that's  
24 the profit.

25 That's the whole concept of doing any

1     arbitrage, but then you have to physically convert  
2     one into the other, you know, to close out the  
3     transaction.

4           Q.     And these convertible preferred securities  
5     were generally convertible within like a 30 day  
6     period?

7           A.     Yes. If, in fact, they were -- well, it  
8     depends upon -- there's -- there's various forms of  
9     arbitrage. I don't want to complicate your  
10    situation, but there's -- you can actually  
11    physically convert one into the other, putting it  
12    into the conversion agent, or you can, what's  
13    called, unwind the transaction, would be to go out  
14    and purchase -- repurchase the stock that you sold  
15    short and resale the one that you're long. It's  
16    commonly referred to as a Chinese arbitrage. Having  
17    nothing to do with China.

18          Q.     Okay.

19          A.     It's just because it's sort of --

20          Q.     It's backwards.

21          A.     -- backwards.

22                   MS. CHAITMAN: It's backwards. Right.

23                   (MADOFF EXHIBIT 6 WAS MARKED FOR  
24     IDENTIFICATION.)

25     BY MS. CHAITMAN:

1 Q. Okay. All right. Let me show you what  
2 I've marked as Exhibit 6. So this is July 31, 1986.  
3 Same account. So what's happening in this page?

4 A. Well, you're -- I see you -- you have a  
5 check coming into the -- going out of the account  
6 with PW for \$7,000. It's normally referred like a  
7 profit withdrawal of some sort, which lowered the --  
8 which lowered the balance by that amount to 284,000.

9 Balance forward was 292. It was reduced by  
10 the -- the balance of the withdrawal of \$7,000. And  
11 then the carrying forward positions are Interco.  
12 You're long and short.

13 Q. So that check was -- was sent to whom?

14 A. It would have been sent to the Bleckers.

15 Q. Okay. And this is the first time we've  
16 seen an entry like that, with a PW, for the  
17 Bleckers. Does that mean that at this point in time  
18 your office would have received a written request  
19 from the Bleckers?

20 A. Correct.

21 (MADOFF EXHIBIT 7 WAS MARKED FOR  
22 IDENTIFICATION.)

23 BY MS. CHAITMAN:

24 Q. All right. I'm handing you what I've  
25 marked as Madoff 7, which is a similar statement.

1 This is for February 28th, 1989. So, again, the  
2 last statement was dated July 31, 1986. This one is  
3 dated February 20th, 1989. And this one indicates a  
4 profit withdrawal. So that, again, would have been  
5 a check --

6 A. Uh-huh.

7 Q. -- sent to the customer?

8 A. Correct.

9 Q. Okay. And if the customer -- what was the  
10 procedure with -- with profit withdrawal requests?  
11 Would -- would there --

12 A. Typically the customer would call up on the  
13 phone to request a check and was instructed that --  
14 that we needed written instructions. They would  
15 send in a -- usually a letter requesting the check.

16 (MADOFF EXHIBIT 8 WAS MARKED FOR  
17 IDENTIFICATION.)

18 MS. CHAITMAN: Okay. Actually, I'm not  
19 going to -- let the record reflect, I'm not  
20 going to use Exhibit 8, because it's -- it's  
21 illegible.

22 MS. BROWN: Can I have a copy, just --

23 MS. CHAITMAN: Yeah, if you want to  
24 just have it.

25 MS. BROWN: Sure. Thank you.

1 THE WITNESS: Let me just -- I want  
2 to -- I forgot what I said about the -- the  
3 request for checks. If a customer -- I think  
4 you covered that in -- in your opening, that if  
5 a customer requested checks to be sent out  
6 quarterly, I don't know that they sent every  
7 quarter, you know, a specific written request.

8 We would have had on file quarterly  
9 profit distribution instructions. They wouldn't  
10 necessarily, you know, call us every quarter for  
11 the check, I don't think, because as long as we  
12 had instructions to send whatever the profit was  
13 in the account as of a certain quarter. Usually  
14 it would be a certain amount. They would say,  
15 send me a certain amount every quarter.

16 BY MS. CHAITMAN:

17 Q. Okay. And we've seen letters with respect  
18 to some customers, where they would write in and  
19 say, please don't send me the profit withdrawals  
20 anymore, or, please send me the profit withdrawals.

21 A. Correct.

22 Q. And it appears from the records that we've  
23 seen that if someone wrote in and said, please send  
24 me the profit withdrawals, the profit withdrawals  
25 would be sent until they sent in a letter saying,

1 don't send me the profit withdrawals?

2 A. That's correct.

3 (MADOFF EXHIBIT 9 WAS MARKED FOR  
4 IDENTIFICATION.)

5 BY MS. CHAITMAN:

6 Q. Let me show you what's been marked as  
7 Exhibit 9, which is a little bit more legible. So  
8 this is April 30th, 1990. And without going through  
9 the same detail, this is essentially the same --

10 A. Yes.

11 Q. -- trading strategy; right?

12 So do you remember the time period when you  
13 were executing this particular trading strategy?

14 MS. BROWN: Objection.

15 THE WITNESS: Do I remember the time  
16 when it was --

17 BY MS. CHAITMAN:

18 Q. The -- the time period when you were using  
19 that strategy?

20 A. Convertibles?

21 Q. Yeah.

22 A. Depending upon the account, but would have  
23 been executing them certainly into the '90s.

24 Q. Okay. Now, with respect to the  
25 transactions that -- what do you -- what do you

1 describe this strategy?

2 A. Convertible arbitrage.

3 Q. Convertible arbitrage. Okay. The -- were  
4 the convertible arbitrage trades actually carried  
5 out?

6 A. Yes.

7 Q. And were they carried out through Bear  
8 Stearns?

9 A. No.

10 Q. How were --

11 A. We were -- we were a self-clearing firm  
12 always. We never cleared through anyone in the  
13 United States. We only cleared through a firm,  
14 through Barclays Bank, in London, but that wouldn't  
15 have been doing this kind of trading.

16 Q. Okay. Was -- was there a time period in  
17 the '80s that you were doing business with Bear  
18 Stearns?

19 A. Yes.

20 Q. Would you -- do you remember when that was?

21 A. We were doing business with everyone all  
22 through -- through 2008.

23 Q. Okay.

24 A. And --

25 Q. Can you -- were you doing -- were you

1 having Bear Stearns execute the purchase of  
2 convertible --

3 A. No.

4 Q. -- debentures?

5 A. We were probably the largest market-maker  
6 and trader in convertible securities in the country,  
7 you know, through the -- the -- the entire period.  
8 You know, I would say -- let's say from the --  
9 certainly from the '80s right through 2008.

10 The -- the business we did with Bear  
11 Stearns, as we did with Merrill Lynch and with  
12 everybody else, was usually as a market-maker or  
13 part of our proprietary trading department, would  
14 have, you know -- might have been in convertibles.

15 It could have been in -- you know, we were  
16 doing hundreds of thousands of transactions every  
17 day. In spite of the fact that we never got caught,  
18 like we weren't doing anything, because they  
19 couldn't find confirmations.

20 We had -- we explained to them that the  
21 industry stopped issuing confirmations, you know,  
22 years ago. They seemed to have been dumbfounded by  
23 that remark.

24 Q. The business that you did with Bear  
25 Stearns, was it structured so that Bear Stearns



1 would buy the securities in its own name and would  
2 lend you the -- the money to buy the securities, and  
3 then when the transactions closed, there would be  
4 a -- an accounting for the profits?

5 MS. BROWN: Objection.

6 THE WITNESS: I'm not sure I understand  
7 the question.

8 BY MS. CHAITMAN:

9 Q. Okay. Did you instruct Bear Stearns to buy  
10 securities positions for -- for you?

11 A. No.

12 Q. So can you just describe what those  
13 transactions were that you did with Bear Stearns?

14 A. I -- we were a market-maker in 500  
15 securities. Some of them were convertible. Some of  
16 them were -- were common. They came to our -- our  
17 market-making department.

18 And based upon what we were quoted in  
19 NASDAQ, if it was a NASDAQ security, they would, you  
20 know, ask for a bid or an offer on whatever they  
21 were selling.

22 That was -- would have been referred to as  
23 a wholesale transaction. Would not involve a  
24 customer of ours. It might have been a customer of  
25 Bear Stearns probably.

1 Q. So -- forgive me for being simplistic.  
2 Bear Stearns would -- might have a customer, or it  
3 might be for their own account?

4 A. Correct.

5 Q. They would have a block of stock? They  
6 would ask you to purchase it?

7 A. Correct.

8 MS. BROWN: Objection.

9 BY MS. CHAITMAN:

10 Q. And -- and you -- and you would purchase  
11 it?

12 MS. BROWN: Objection.

13 THE WITNESS: Depending upon which  
14 department it came -- if it was a market-making  
15 transaction, it would go into the firm's  
16 market-making account.

17 You know, if it was -- you know, and  
18 that's the only way that Bear Stearns would come  
19 to us.

20 BY MS. CHAITMAN:

21 Q. Okay.

22 A. I'm not sure I understand where you're  
23 going. So --

24 Q. No. I just want to get an understanding of  
25 what the structure was of your dealings with Bear

1 Stearns.

2 A. The same as it was with everybody else, you  
3 know, in the industry. Every other broker-dealer.  
4 If it was coming through -- if it was, you know, a  
5 security that we were a market-maker in, which was  
6 500 different securities.

7 Q. And would -- who -- if you were purchasing  
8 a large block of stock from Bear Stearns --

9 A. Uh-huh.

10 Q. -- where would the financing come from for  
11 that?

12 MS. BROWN: Objection.

13 Helen, I think we're starting to go a  
14 little outside the scope of the order. He's  
15 saying that he didn't purchase it for customers.

16 MS. CHAITMAN: Well --

17 MS. BROWN: It was a wholesale  
18 business.

19 MS. CHAITMAN: I'm not -- I'm not sure.

20 MS. BROWN: So I'm going to let you  
21 permit it. Keep going forward.

22 MS. CHAITMAN: Yeah.

23 MS. BROWN: But I think we're treading  
24 very close to getting outside of the scope of  
25 the order.

1 BY MS. CHAITMAN:

2 Q. I -- with respect to the transactions we've  
3 seen --

4 A. In convertible securities?

5 Q. On the customer statements.

6 A. Right.

7 Q. Your testimony is that these were positions  
8 that you actually executed?

9 A. Correct.

10 MS. BROWN: Objection.

11 BY MS. CHAITMAN:

12 Q. Okay. And how did you execute the  
13 transactions that -- that we've been reviewing on  
14 these statements?

15 MS. BROWN: Objection.

16 THE WITNESS: Either we would go out  
17 into the open market to buy them, you know, from  
18 another dealer. It could have been Bear  
19 Stearns, if, in fact, they made a market in that  
20 security, or it could have been someone --  
21 someone else, or it could have been somebody  
22 coming in to us unsolicited, another dealer to  
23 sell a security. I mean, that's what we did all  
24 day long.

25 BY MS. CHAITMAN:

1 Q. And who were the people, if you recall,  
2 during the 1980s who were executing these  
3 transactions that we've just reviewed?

4 MS. BROWN: Objection.

5 THE WITNESS: Who would we call?

6 BY MS. CHAITMAN:

7 Q. Who were the people, if you recall, within  
8 your organization who were doing this?

9 A. It would have been -- depending upon which  
10 trader was making a market in that stock, it could  
11 have been someone like, you know, a David Kugel. It  
12 could have been someone like a Martin Joel. It  
13 could have been any number of, you know, a hundred  
14 traders that we had.

15 Q. So did -- how did it work? Did you assign  
16 to traders the transactions with respect to certain  
17 securities? How was that allocated among your --

18 A. Certain traders made a market in certain --  
19 in various securities. Other -- there also were  
20 times that we didn't make a market in that security.  
21 That we just went out into the open market to buy.  
22 It could have been any number of traders that --  
23 that did that for us over the years.

24 Q. Okay. So --

25 A. Including myself.

1 Q. Okay. So I just want to be clear on  
2 something. There's a -- there's been a public  
3 perception --

4 A. Uh-huh.

5 Q. -- that there was a stone wall between the  
6 17th floor, which handled the investment advisory  
7 accounts, and the 18th and 19th floor.

8 A. The Chinese wall.

9 MS. BROWN: Objection.

10 BY MS. CHAITMAN:

11 Q. The Chinese wall. Okay.

12 A. It's referred to.

13 Q. Okay. But are you saying that the  
14 investment advisory transactions that we've just  
15 reviewed were executed by people on the 18th or 19th  
16 floors?

17 MS. BROWN: Objection.

18 THE WITNESS: It depends. It depends  
19 upon, again, whether we were a market-maker and  
20 also the period of time. The -- the Chinese  
21 wall went into existence in the '80s, and the --  
22 the Chinese wall varied based upon what the SEC  
23 requirements were with -- with the Chinese wall.

24 In other words, it became more specific  
25 the later the period went. For example, once

1       you went into the '90s the Chinese wall was --  
2       was, you know, in place.

3               When you're talking about doing  
4       transactions in the '80s, it was -- that was  
5       done, you know, by one -- you have to understand  
6       we were one firm. There was no -- there was no  
7       separation between the investment advisory, you  
8       know, and the -- and the market-making side in  
9       the beginning.

10              It was only -- it was all down under  
11       Bernard L. Madoff Investment Securities. Even  
12       the investment advisory form was filed -- the  
13       ADD form was filed under Bernard L. Madoff  
14       Investment Securities.

15              We structured the Chinese wall, as  
16       required, to have different managers supervise  
17       different departments. And then physically we  
18       moved the whole advisory side down to the 17th  
19       floor. That was in the '90s.

20              But it could have been any number of  
21       people making -- you know, executing the  
22       transaction, including myself, in these types of  
23       convertibles. But it could have been any number  
24       of traders that did it, or it could just be me  
25       going out and buying the security.

1 BY MS. CHAITMAN:

2 Q. Okay.

3 A. To answer your question, which I think I  
4 know where you're going, the convertible securities  
5 transactions were all bought and sold. They were  
6 not paper transactions, as opposed -- as opposed to  
7 the split-strike transactions, which in the '90s  
8 became just paper transactions, where we were  
9 actually short.

10 You also have to understand one thing.  
11 This is beyond the depth, for some reason, of Irving  
12 Picard, his whole legal thing. No -- no remarks,  
13 but -- but it's -- I was astounded of the lack of  
14 understanding of -- of this, but the -- oh, I went  
15 off track. The -- what was -- what --

16 MS. CHAITMAN: Can you read back where  
17 he was? Just -- just read back his answer.

18 MS. BROWN: I just want to make sure  
19 we're -- we're -- the testimony has to be  
20 limited to profit withdrawals. So --

21 MS. CHAITMAN: Yeah, I want you --  
22 we're focusing on these transactions that we've  
23 just reviewed.

24 THE WITNESS: Okay.

25 (THE PREVIOUS ANSWER WAS THEN READ.)



1 THE WITNESS: Okay. Okay. I  
2 understand. All right. All of our trading was  
3 done as principal. You know, I had to explain  
4 this, for some reason, to the SEC and to the  
5 other people, the 20 some odd people who were  
6 there at my proffer agreement, of what -- of  
7 what that is.

8 When brokerage firms either buy or sell  
9 as an agent, which means they go out into the  
10 market, and they buy it from another broker, as  
11 an agent, and then charge a commission or a  
12 markup, or they trade as principal, which means  
13 they go out into the market the same way and buy  
14 it and sell it and mark it up or they short it.  
15 They go short, the stock.

16 As -- as a market-maker -- which means  
17 that we're selling stock to another  
18 broker-dealer, like a Merrill Lynch or we're  
19 selling it to John Q Public. We're making the  
20 same transaction.

21 We're selling that stock as principal,  
22 meaning that I either bought it in the  
23 marketplace or I shorted it. Now, as a  
24 registered market-maker, you're required by  
25 regulation to at times short stock to a client

1 in order to be competitive in order to make a  
2 two-sided market.

3 So I'm under an obligation, even though  
4 I don't want to sell the security, to make my  
5 market good, because I have a quoted market in  
6 NASDAQ or on the pink sheets, depending upon the  
7 time period.

8 And somebody comes in to buy stock or I  
9 have a client that wants to buy stock, I have to  
10 short the stock, which means that the client  
11 still owns the stock.

12 The same way as if I had went out into  
13 the market to bought it or I -- except that --  
14 that it's my obligation to deliver that stock,  
15 you know, in the future to that client if he  
16 requires it or he wants to sell it and so on.  
17 It's the same transaction.

18 Now, our practice, as most dealers,  
19 like myself, in the industry, was to always  
20 trade as principal. Particularly in stocks we  
21 were a market-maker in. And the fact that we go  
22 short a stock does not mean that the transaction  
23 was not completed.

24 The reason I'm stressing that was  
25 during the proffer agreement, the first thing

1 that the prosecutor jumped on was when I said  
2 that -- going back even into the '70s I sold  
3 stock short to a customer.

4 And he said, well, you mean you sold  
5 stock that you didn't own to the customer? And  
6 both myself and my attorneys were dumbfounded  
7 with the question.

8 I don't know whether it was theater,  
9 but from that remark was deduced that Madoff  
10 never sold -- bought stock for -- actually  
11 bought the stock that he sold to a customer.

12 When -- when other people, like other  
13 attorneys in the industry, and I must have had  
14 30 of them come down here in the past seven  
15 years, were stunned at that kind of dialogue.

16 And they said that he couldn't have not  
17 been -- he couldn't have not known that. This  
18 must have been a theater to just build a case,  
19 which I didn't know why anyone had built. I had  
20 admitted what I did. All right.

21 BY MS. CHAITMAN:

22 Q. Okay. So the --

23 A. All of the arbitrage transactions that  
24 you're talking about, the Bleckers or for anybody  
25 else, were actual purchases and sales of the

1 securities, either as agent or as principal, but  
2 that doesn't matter which way it was done. It was  
3 an actual transaction, where money changed hands.

4 Q. Okay.

5 A. As opposed to the split-strike, where it  
6 was done -- it was done the same way, but I never  
7 reflected those short positions on the books. And  
8 there was my problem.

9 There was nothing wrong with me shorting  
10 stock to clients, and -- even if it was 65 billion  
11 dollars worth of shorting them. Where I went wrong  
12 and violated the law was not reflecting those  
13 liabilities on my books and records. That's it in a  
14 nutshell.

15 Q. Okay. Just sticking with the profit  
16 withdrawals, which is all I'm permitted to ask you  
17 about --

18 A. Okay.

19 Q. -- with respect to the convertible  
20 debentures. Were there -- are there any documentary  
21 records that you can recall that would establish  
22 what you're saying, that these were actual  
23 transactions?

24 In other words, for the period from, say,  
25 1981 through, say, 1990?

1 A. Yes. You -- you --

2 Q. Let me just finish. 1995, say.

3 A. Right.

4 Q. Are there any documentary records which  
5 would prove what you're saying?

6 A. They should all have been available, unless  
7 they were, you know, destroyed or in part of the  
8 record-retention process. There would be blotters.  
9 There would be cash receipts.

10 Depending upon whether the transaction went  
11 through the clearing corporation or whether it was  
12 just an over the -- over-the-window transaction, but  
13 there would be debits and credits in the firm's bank  
14 account.

15 Now, the convertible securities all went  
16 through the Bank of New York. They did not go  
17 through, to my recollection, JPMorgan. Those were  
18 all -- all the investment advisory transactions,  
19 which these would not be considered, going back to  
20 the '80s, went through either Bank of New York,  
21 Banker's Trust.

22 Man, we had -- we had a lot of banks, you  
23 know. There would -- there should be -- just as  
24 there were, you know, transactions that went through  
25 the clearing corp, which would have been NSCC or DTC

1 in the later years.

2 Q. Okay. Now, the -- this strategy with the  
3 convertible debentures continued into the 1990s?

4 A. Uh-huh.

5 Q. And, as I understand it, it existed at the  
6 same time as the split-strike conversion strategy?  
7 There were some customers --

8 A. Right.

9 Q. -- who were in split-strike, and some were  
10 in the --

11 A. Correct.

12 Q. -- subordinated debentures?

13 MS. BROWN: Objection.

14 BY MS. CHAITMAN:

15 Q. Are you saying that at the same time that  
16 you were not executing the transactions in the  
17 split-strike accounts, you were executing the  
18 transactions in the subordinated debenture accounts?

19 A. Yes.

20 MS. BROWN: Objection.

21 Go ahead.

22 THE WITNESS: Yes, but you -- you --  
23 you have to understand that these transactions  
24 could have been done as, you know, actually in  
25 the marketplace or from the firm's trading or

1 investment accounts.

2 In other words, it's -- it's not just a  
3 matter of there were two -- as I said before,  
4 there were ways that we could go out, and if we  
5 decided we wanted to buy and sell a security for  
6 a client doing a convertible arbitrage or for an  
7 equity transaction, we would go out into the  
8 marketplace and buy that securities, or the  
9 marketplace would come to us and sell us that  
10 security.

11 All right. Or we would go short the  
12 stock from the firm's trading or investment  
13 account to the client. It's still the same  
14 transaction.

15 All right. There's still an entry on  
16 the books. It would look the same. It would  
17 just be carried over into a long and short  
18 position. From the customer's standpoint it's  
19 totally the same.

20 BY MS. CHAITMAN:

21 Q. Okay. So forgive me for going over this  
22 again, but I just want to be clear on it. If -- if  
23 we wanted to find the documentary evidence of  
24 this -- I mean, just let's -- let's be concrete.

25 If I look at -- let me just take one of

1 these that's legible. If -- if you'd be good enough  
2 to look at Exhibit 4 for a second.

3 A. Uh-huh.

4 Q. Okay. So this is 12/31/85.

5 A. Right.

6 Q. If I wanted to find the documentary  
7 evidence of the --

8 A. You would have a very -- this -- this  
9 record would probably not be retained. It's an '85  
10 transaction.

11 Q. Okay. So there wouldn't be any place I  
12 could find it?

13 A. No.

14 Q. And of the people who were working for you  
15 at the time who were the people that I would have to  
16 talk to who would possibly have executed these  
17 transactions?

18 A. It might have been myself. It might have  
19 been -- in '85 it could have been David Kugel. It  
20 could have been Martin -- well, Martin Joel was  
21 dead. I don't remember the name -- the names of  
22 some of the other trade -- traders.

23 Q. Okay. And if we go a little bit further  
24 along, like in, let's say, 1990.

25 A. As a general rule, you would -- the firm



1 would not -- and I would -- you know, you'd have to  
2 ask the trustee. As a general rule, all records  
3 were the past six years, which is their requirement  
4 or -- or destroyed, with the exception of customer  
5 transactions.

6 As I said, we kept those longer, because  
7 the clients, particularly the individual clients  
8 that we had, for some reason, could never find their  
9 monthly statements for their tax returns and so on.

10 So we would constantly get -- as all  
11 brokers did, we'd get phone calls from an account,  
12 like the Bleckers, saying, I have a tax audit, and I  
13 need to, you know, find my cost basis on a  
14 particular security. So we typically kept those --  
15 those records longer.

16 But as far as Wall Street's records, nobody  
17 kept records past -- as the same reason the banks  
18 don't keep the records. Six years is the record  
19 retention period.

20 After that, they're automatically supposed  
21 to be destroyed. And that includes the -- by the  
22 way, to correct that, that would include microfiche,  
23 unless it was for clients. But the counter signs of  
24 broker-dealers don't.

25 As I said before, the -- the industry

1 requested the SEC to change their requirements,  
2 which they, in fact, did from pressure in the  
3 industry to not produce hard copy records with each  
4 other, with brokerage firms trading amongst  
5 themselves.

6 The requirement that you had -- you had to  
7 be able to produce them upon an examination request  
8 within 48 hours, but nobody kept records past six  
9 years. It would be impossible to do it.

10 Q. But you would scan the records and keep  
11 them on computer?

12 MS. BROWN: Objection.

13 THE WITNESS: Every -- to my knowledge,  
14 everything would have been -- after six years,  
15 we had no records.

16 BY MS. CHAITMAN:

17 Q. Okay.

18 A. Except you would find client confirmation  
19 in the statement records, but not, you know, what's  
20 called street records. Meaning other brokerage  
21 firms trading with each other, even in  
22 clearinghouses.

23 Q. Okay. These -- these records --

24 A. Those are customer statements.

25 Q. These -- these were produced by the

1 trustee.

2 A. Okay.

3 MS. BROWN: Objection.

4 BY MS. CHAITMAN:

5 Q. Going back to '85?

6 A. Right.

7 Q. So --

8 A. Yeah. Those -- as I said, those  
9 statements, you would have some, because they  
10 were -- they were customer activity. I doubt  
11 whether you would be able to find counter signed  
12 with other brokerage firms that -- dating back that  
13 long.

14 Q. Okay. Can you just --

15 A. I -- I want to read --

16 Q. Go ahead.

17 A. -- something into the record, which may be  
18 beneficial to you or not. I don't know. But the --  
19 what was amazing to me and to a whole host of other  
20 attorneys that came here and went through the same  
21 process that we're going through, the -- the fact  
22 that you can't produce going back whatever the  
23 period of time is records that will research  
24 transactions that -- you know, that would verify  
25 that a transaction was done.

1           According to the trustee and the prosecutor  
2     at the time, meant that the transaction never  
3     occurred. But other attorneys pointed out and said,  
4     well, wasn't those transactions, you know -- you  
5     know, gone -- didn't they go through the clearing  
6     corporation? Weren't there debit and entries in  
7     checking accounts and so on?

8           Those transactions were reported to -- to  
9     the regulators, to FINRA, or we reported those  
10    transactions on a daily basis. Weren't those debits  
11    and credits -- you know, weren't they reflected  
12    anywhere? Wasn't there money changing hands?

13          You know, wasn't there a continuous net  
14    settlement with the banks for the clearing  
15    organizations wanted to get paid for securities back  
16    and forth?

17          And they said, of course.

18          Well, doesn't that demonstrate the fact  
19    that the transactions did take place? And I had to  
20    explain what a continuous net settlement was. Now,  
21    a continuous net settlement was when you buy stock  
22    in a marketplace.

23          I may go out and buy the stock for Blecker,  
24    let's assume, if it was a regular equity from a  
25    Merrill Lynch. All right. I may buy it from five

1 other brokerage firms.

2 The clearing corporation nets all of those  
3 transactions overnight in a -- in what's called a  
4 continuous net settlement, and -- and I get -- my  
5 contract winds up being with a broker that has  
6 nothing to do with Bear Stearns and Merrill Lynch.  
7 It might be Credit Suisse or something of that sort.

8 Q. Uh-huh.

9 A. It's called a continuous net settlement.  
10 They net all of the buys and sells, and they just  
11 ask the broker for a money difference. So I could  
12 do literally a billion dollars worth of purchases  
13 and sales and wind up with literally \$100,000 net  
14 credit or a debit, depending upon the transactions.  
15 That's the way the industry runs.

16 Q. And would -- were there different clearing  
17 firms that you used for various kinds of --

18 A. It wasn't --

19 Q. -- transactions?

20 A. They were not clearing firms. They were  
21 other counterparties of the brokerage firm. We  
22 cleared the transaction ourselves, but we bought, as  
23 did everybody else.

24 When you say a clearing firm, it means that  
25 you had no back office capability to generate

1 confirmations or -- or no operations departments --

2 Q. Uh-huh.

3 A. -- and so on. We had -- from the day we  
4 opened up our doors in 1960 we self-cleared all of  
5 our transactions and continued that through 2008.

6 MS. CHAITMAN: Okay. All right. If I  
7 can just take a five-minute break.

8 THE WITNESS: I'll tell you what, I --

9 THE VIDEOGRAPHER: Going off the  
10 record. The time is 10:03.

11 (RECESS FROM 10:03 A.M. TO 10:15 A.M.)

12 (MADOFF EXHIBITS 10 AND 11 WERE MARKED  
13 FOR IDENTIFICATION.)

14 THE VIDEOGRAPHER: Back on the record.  
15 The time is 10:15.

16 MS. CHAITMAN: I want to show you what  
17 I've marked as Exhibit 11.

18 MS. VANDERWAL: Are you sure it's not  
19 10?

20 MS. CHAITMAN: What did I do with 10?  
21 Let's see.

22 MS. BROWN: I think the last one you  
23 marked -- you didn't use Exhibit 8, and then you  
24 marked Exhibit 9.

25 MS. CHAITMAN: Thank you. Okay. So

1 10 -- yeah. Well, thank you for correcting me.  
2 This is Exhibit 10.

3 BY MS. CHAITMAN:

4 Q. So, Mr. Madoff, is it fair to say that  
5 these are the same kinds of transactions that we've  
6 already reviewed this morning?

7 A. Yes.

8 Q. So this is that same trading strategy?

9 A. Correct.

10 Q. And this is 12/31/90?

11 A. Uh-huh.

12 Q. And is it your testimony that as of  
13 12/31/90 these transactions were actually executed?

14 A. Correct.

15 Q. Okay. And these were executed by the  
16 traders on the 18th and 19th floors?

17 MS. BROWN: Objection.

18 THE WITNESS: Yes.

19 BY MS. CHAITMAN:

20 Q. Now, if I can show you what I've marked as  
21 Exhibit 11, and we're just going to -- so this is --  
22 the Madoff 11 is dated 5/31/95. So we've skipped --

23 A. Right.

24 Q. -- several years. Is this basically the  
25 same strategy, the same trading strategy?

1 MS. BROWN: Objection.

2 THE WITNESS: Yes.

3 BY MS. CHAITMAN:

4 Q. And as of May 31, 1995 were these  
5 transactions actually executed by the people on the  
6 18th and 19th floors?

7 MS. BROWN: Objection.

8 THE WITNESS: There's also the 17th  
9 floor. So during that period, in '95, the  
10 seventh -- the 17th floor went into existence in  
11 '92, I believe, or '93, something like that.

12 BY MS. CHAITMAN:

13 Q. So were these -- were these transactions --  
14 transactions that are reflected here actually done?

15 MS. BROWN: Objection.

16 THE WITNESS: After '90 -- after '92,  
17 things got discombobulated. So I can't -- I  
18 can't say yes or no on that after '92.

19 BY MS. CHAITMAN:

20 Q. Okay. So do you have a -- when you say,  
21 "after '92," do you have some way that you can peg  
22 it to '92? I just -- I just want to have your  
23 testimony as to what the cutoff was.

24 When was -- when were the trades actually  
25 executed on the convertible debenture strategy?



1 A. I can't say specifically. Certainly prior  
2 to '92 they were. Before it began in '92 --

3 Q. So --

4 A. -- partially.

5 Q. If we said -- if we said January 1st, 1992,  
6 everything before that was --

7 A. Should have been --

8 Q. -- was executed?

9 A. -- executed. Correct.

10 Q. Okay. Are you comfortable with that as --

11 A. As comfortable as I can be, you know, now.

12 Q. Okay. Why -- why do you peg it to 1992?

13 A. Because post '92 was when I started doing  
14 the business in the split-strike, you know, or not  
15 doing business in the split-strike.

16 Q. Okay. Now, have you ever discussed with  
17 Irving Picard the profit withdrawal trades?

18 A. No.

19 Q. Did you -- did you ever meet with Irving  
20 Picard?

21 A. Once. There -- during the proffer  
22 agreement, which is the first day after I was  
23 arrested. To my knowledge, that was the last time I  
24 spoke to him or saw him.

25 Q. Okay. Did you meet with anyone who either

1 represented him as a lawyer --

2 A. Yes.

3 Q. Who?

4 A. David Sheehan and a whole group of lawyers  
5 came down here, interviewed me for two days. I  
6 don't remember the time period. Probably within a  
7 few -- maybe two years after I came here, I guess it  
8 was, or the year after I came here.

9 Q. Okay.

10 A. Which was, you know, in 2009.

11 Q. 2009, when you came here?

12 A. Yeah.

13 Q. So it would have been in 2010?

14 A. Probably. Something like that.

15 Q. Okay. And did they ask you whether the  
16 profit withdrawal transactions were actually  
17 executed?

18 A. Not to my knowledge. There was actually --  
19 wait a minute. There was one -- there was one  
20 question-and-answer exchange that happened relating  
21 to a scrap of paper that they produced that had some  
22 scribbling on it from one of my traders. I think it  
23 was David Kugel, I think they said.

24 It was a conversion instruction. And I  
25 remember this, because it was, what they thought,

1 was some sort of smoking gun. What they did was  
2 they showed me a piece of paper and my attorneys who  
3 were here at the time, Ike Sorkin.

4 And it gave the formula a particular  
5 convertible bond or preferred. I don't remember  
6 which it was. What that convertible bond was  
7 convertible into the number of shares. It was --

8 And they asked me what that was, and I  
9 said, that is instructions of what -- how to convert  
10 what -- what a convertible bond equal the number of  
11 shares.

12 And they asked me if I knew who wrote this.  
13 And I said, it looks like David Kugel's handwriting.  
14 And they asked me what it was. And I said, that  
15 would be instructions to one of the operations  
16 people to -- what -- how to convert a particular  
17 security.

18 And from that he tried to, you know, say  
19 that that was instructions to create a transaction.  
20 And I said that you would probably find a hundred of  
21 those types of instructions in the records if you  
22 looked at them.

23 And that was instructions that the trader,  
24 David Kugel at that time, would have to have been a  
25 trader in that particular bond or preferred, is

1 instructing probably Jodi Crupi or one of the other  
2 people, you know, in the operations department how  
3 to allocate, you know, a particular security,  
4 convert it.

5 I said, you know, if you went to any back  
6 office, you would see instructions like that, you  
7 know. I didn't understand why he felt that that was  
8 important one way or the other, but he -- he was --  
9 I guess he -- where he was going was this was his  
10 evidence that the -- that the transaction was just a  
11 fictitious transaction, made up.

12 That was the end of that. I started  
13 laughing. My attorney started to laugh. And there  
14 was, you know, a lot of confused looks from the  
15 lawyers, the other six attorneys that were present  
16 at that meeting.

17 That was the only thing -- that was the  
18 only -- that was the only conversation we had,  
19 period, about anything relating to any of this.

20 Q. Did anyone on behalf of the trustee ask you  
21 what your policy was with respect to requiring  
22 letters from clients asking for withdrawals?

23 A. I don't recall anything coming up about  
24 that. No.

25 MS. CHAITMAN: Okay. All right. I

1 have no further questions, subject to redirect.

2 MS. BROWN: Okay. I have some  
3 questions, but we need --

4 THE WITNESS: Sure.

5 MS. BROWN: -- to take a short break.

6 THE WITNESS: Okay.

7 MS. BROWN: Just a couple of minutes --

8 THE VIDEOGRAPHER: Going --

9 MS. BROWN: -- if that's okay.

10 THE VIDEOGRAPHER: Going off the  
11 record. The time is 10:25.

12 (RECESS FROM 10:25 A.M. TO 10:40 A.M.)

13 THE VIDEOGRAPHER: Back on the record.  
14 The time is 10:40.

15 CROSS-EXAMINATION BY COUNSEL FOR TRUSTEE

16 BY MS. BROWN:

17 Q. Good morning, Mr. Madoff.

18 Mr. Madoff, your former business was called  
19 Bernard L. Madoff Investment Securities, L.L.C.;  
20 correct?

21 A. Yes.

22 Q. Okay. And is it okay if we refer to it as  
23 BLMIS today?

24 A. Perfect.

25 Q. Great. Mr. Madoff, who was in charge of

1 BLMIS?

2 A. Me.

3 Q. Okay. And what were your day-to-day  
4 responsibilities for BLMIS?

5 A. Primarily just supervising the firm, but  
6 based upon our compliance procedures as part of the  
7 Chinese wall, the firm had to be divided in -- in  
8 different divisions.

9 So we had a market-making division, which  
10 was supervised by my son, Mark. We had a  
11 proprietary trading division, which was supervised  
12 by my son, Andy.

13 The investment advisory side, or the 17th  
14 floor, as it's referred to, was basically supervised  
15 by Frank DiPascali. And my brother, Peter, was the  
16 compliance director of the -- everything, other than  
17 the investment advisory side. I was the compliance  
18 manager of the investment advisory side.

19 And each -- the requirements had that the  
20 divisions could not speak to each other. So my  
21 sons, Mark and Andy, could not have contact with  
22 what the profits or loss of each department was.  
23 They had to be run like separate divisions.

24 That was a procedure that was put into  
25 place. Well, it started in the '80s, but what --

1 it -- the SEC kept on adjusting what the industry  
2 had to do through the 2000's.

3 Q. Okay. So those supervisors that you've  
4 just described in the organizational chart, you were  
5 above them?

6 A. Yes. I was in charge of everything.

7 Q. Okay. Did you report to anybody?

8 A. No.

9 Q. And those supervisors that you've just  
10 described, they reported to you?

11 A. Yes.

12 Q. How many employees did you have in total at  
13 BLMIS?

14 A. I would guess offhand, maybe 100, 150.

15 Q. And how did those employees break down  
16 between the three divisions that you've described?

17 A. There were -- I would say there were 75  
18 traders. There were probably 30 operations, back  
19 office type people. A similar amount of IT people.  
20 I don't know. What are we -- what are we up to now?

21 Q. Sixty -- 135.

22 A. And the rest were, you know, a combination  
23 of bookkeepers, operate -- you know, messengers,  
24 people of that sort.

25 Q. Approximately how many people worked on the

1 17th floor in the investment advisory department?

2 A. There was Frank DiPascali, Jodi Crupi,  
3 Erin, Eric Lipkin. There was another fellow. I  
4 don't remember his name. Frank's cousin. I think  
5 his name was -- and there was Annette, and she had  
6 about four different women working for her.

7 Then there was a whole mailroom that had  
8 about four or five people in it. And then there  
9 were a number of other programmers, George and  
10 Jerry. George -- I think pretty much that covers  
11 them.

12 Q. Okay. And, so just going through the  
13 employees that you've listed, what were Frank  
14 DiPascali's day-to-day responsibilities?

15 A. Pretty much everything relating to the  
16 customers.

17 Q. Those are the customers in the investment  
18 advisory business?

19 A. Right.

20 Q. Can you give me some detail about -- when  
21 you say everything related to customers in the  
22 investment advisory, what does that mean?

23 A. He was in charge of the split-strike  
24 conversion trades. He was in charge of the  
25 programming. The -- the actual execution of the



1 model for the split-strike trades, and he just ran  
2 pretty much everything down that floor.

3 Q. Is it fair to say that Frank was in charge  
4 of the 17th floor?

5 A. Yes.

6 Q. And Jodi Crupi, what did she do on a daily  
7 basis on the --

8 A. She --

9 Q. -- 17th floor?

10 A. -- basically worked with Frank. She kept  
11 the checkbook for the JPMorgan account, which is  
12 where all the investment advisory clients  
13 transactions took place. She was his -- his number  
14 one assistant.

15 Q. When you say she handled the checkbook, did  
16 she sign checks?

17 A. No.

18 Q. Okay.

19 A. No.

20 Q. Who signed the checks for the JPMorgan  
21 account?

22 A. I did mostly. Sometimes -- I don't even  
23 know who else would sign them. I guess my brother  
24 had signatory possibly. I -- I was trying to think  
25 of that the other day. I couldn't remember whether

1 he ever did or not. I don't know who else. I don't  
2 remember who else.

3 Q. Did you physically sign the checks, or your  
4 signature was printed --

5 A. No.

6 Q. -- from the computer?

7 A. Physically. Physically.

8 Q. And you physically signed the checks  
9 through 2008?

10 A. Yes.

11 Q. And, other than Peter and yourself, you  
12 can't -- do you -- did anyone else have signing  
13 authority for the JPMorgan account?

14 A. I don't recall.

15 Q. Okay. You mentioned Erin. Is Erin -- is  
16 that Erin Reardon?

17 A. Yes.

18 Q. Okay. And what were Erin's day-to-day  
19 responsibilities on the 17th floor?

20 A. She -- she was also -- same as Jodi, except  
21 she -- I don't think she kept anything to do with  
22 the checkbook. She just, you know, helped process  
23 all of the -- the transactions with Frank.

24 Q. Okay. And, Eric Lipkin, what were his  
25 day-to-day responsibilities?

1 A. Same as -- same as Jodi, except also he  
2 didn't -- he wasn't involved with the checkbook  
3 really. He was -- worked with Frank with --  
4 remodeled the allocations of the trades and so on.

5 Q. Okay. Let's turn to Annette. That's  
6 Annette Bongiorno?

7 A. Yes.

8 Q. And what were Annette's day-to-day  
9 responsibilities?

10 A. Primarily handling the -- the customer  
11 statements dealing with mostly related to Levy,  
12 Picower, Stanley Chais and a number of other  
13 clients.

14 Q. And how long did Ms. Bongiorno work for  
15 you?

16 A. Probably 30 some odd years.

17 Q. Did she always work on the investment  
18 advisory side of the business?

19 A. No. She worked on the arbitrage side for  
20 the customers. Also as -- she was basically a  
21 bookkeeper.

22 Q. When you say, "the arbitrage side for the  
23 customers," are you referring to customers in the  
24 investment advisory business?

25 A. Well, the investment advisory didn't really

1 go into existence officially until, you know, in the  
2 '90s while she -- until we filed the form, which was  
3 in 2006, but she was on -- wasn't on the 17th floor  
4 until the '90s, when we moved everybody down to the  
5 17th floor. That didn't have anything to do with  
6 market-maker or the proprietary side.

7 Q. And the customer accounts that she handled,  
8 were those investment advisory accounts?

9 A. Well, it's hard to -- to classify  
10 whether -- she primarily handled a group of the  
11 large accounts and the convertible arbitrage-type  
12 accounts.

13 Q. Okay. And you mentioned that Ms. Bongiorno  
14 had several different people working for her. Do  
15 you know what those individuals did on a daily  
16 basis?

17 A. They were bookkeepers.

18 Q. Do you remember any of their names?

19 A. She had one, Evelyn -- I don't remember  
20 their names.

21 Q. Yeah.

22 A. I used to.

23 Q. Okay. But those bookkeepers worked for  
24 Annette?

25 A. They were clerks. Yeah.

1 Q. Clerks. And they reported to Annette?

2 A. Yes.

3 Q. Okay. You mentioned the mailroom. What  
4 was the mailroom's responsibility at BLMIS?

5 A. Mail out the customer confirmations  
6 basically and customer statements.

7 Q. Would they mail customer checks?

8 A. Yes.

9 Q. Did the mailroom stuff the envelopes for  
10 the statements and the checks?

11 A. Yes.

12 Q. And you mentioned the programmers, George  
13 Perez and Jerry O'Hara. What were their daily  
14 responsibilities?

15 A. They wrote code for the computer, dealing  
16 with primarily the investment advisory clients,  
17 trades.

18 Q. I'm going to read some names to you, and if  
19 you -- if they refresh your recollection, maybe you  
20 could tell me what they did. Is the name Winifier  
21 Jackson familiar to you?

22 A. Yeah. She was one of Annette's clerks.

23 Q. Okay. And do you have any specifics on  
24 what her role was?

25 A. Just following Annette's instructions

1 primarily.

2 Q. Okay. And Alethea Mui? I don't know if  
3 I'm saying that right.

4 A. Alethea. Yeah.

5 Q. Yeah.

6 A. Same.

7 Q. Same. So she had a similar role --

8 A. Yeah.

9 Q. -- as Ms. Jackson?

10 A. Uh-huh.

11 Q. Dorothy Khan?

12 A. I think the same.

13 Q. When you say, "the same," you mean the same  
14 as Alethea --

15 A. Right.

16 Q. -- and Ms. Jackson?

17 A. Uh-huh.

18 Q. Okay. Fran Barbato?

19 A. Probably the same.

20 Q. Okay. So all the people that we've just  
21 described, Frank, Jodi, Erin, Eric, Annette,  
22 Ms. Jackson, Ms. Mui, Ms. Khan, those employees all  
23 worked on the 17th floor?

24 A. Right.

25 Q. And is it fair to say that they ran the

1 investment advisory business for you?

2 A. Well, they didn't -- they were basically  
3 bookkeepers.

4 Q. Okay. Did they handle -- sorry. Strike  
5 that. I want to go back just one step.

6 Is the name Joanne Sala familiar to you?

7 A. Excuse me?

8 Q. Joanne Sala?

9 A. What did Joanne do? She -- I don't  
10 remember. She worked -- she worked with Annette  
11 also. I don't know how long. I guess she worked  
12 with Annette for -- during that same period.

13 Q. What period is that?

14 A. I think she -- I don't remember whether she  
15 stayed -- whether she was at the firm at the very  
16 end or not, but certainly, you know, through the  
17 '90s and 2000, I guess.

18 Q. And she worked for Annette?

19 A. Yeah, I believe so.

20 Q. Okay. So Annette would be her supervisor?

21 A. Yeah.

22 Q. Are you familiar with what Ms. Sala's  
23 specific job duties were?

24 A. No.

25 Q. Okay. Okay. So the -- including Ms. Sala

1 into the list of people that you've described that  
2 worked on the 17th floor, did those employees open  
3 investment advisory accounts for customers?

4 A. I don't -- when you mean open them, I don't  
5 know. I mean, I don't remember who -- who  
6 physically opened the account, meaning filing the  
7 papers and so on.

8 Q. Uh-huh.

9 A. It could have been any number of them.

10 Q. Okay. Would it have been someone that  
11 worked on the 17th floor?

12 A. Huh?

13 Q. Would it have been someone that worked on  
14 the --

15 A. Yes.

16 Q. -- 17th floor?

17 A. Yes. Somebody had to on the 17th floor do  
18 it.

19 Q. Okay. And when questions from customers  
20 relating to their customer accounts came in, were  
21 those phone calls taken by employees on the 17th  
22 floor?

23 A. Yes.

24 Q. Did Annette have her own phone line?

25 A. I mean, everybody had an extension.



1 Q. Okay. And did customers call Ms. Bongiorno  
2 directly?

3 A. Some, yes.

4 Q. Okay. And did customers call Frank  
5 DiPascali directly?

6 A. Yes.

7 Q. And were customers able to contact other  
8 individuals that worked on the 17th floor directly?

9 A. Including them, yes.

10 Q. To your knowledge, did Frank DiPascali and  
11 Annette Bongiorno take customer calls?

12 A. Yes.

13 Q. And did they respond to customer inquiries?

14 A. Uh-huh.

15 Q. Yes?

16 A. Yes.

17 Q. Did they confer with you every time a  
18 customer called?

19 A. No.

20 Q. And did Ms. Bongiorno, Mr. DiPascali and  
21 the individuals working for them have the authority  
22 to speak with customers?

23 A. Yes.

24 Q. And did they have the authority to respond  
25 to their inquiries?

1 A. If they -- if they knew the answer.

2 Q. When customers sent correspondence to  
3 BLMIS, where would the correspondence go?

4 A. It would go basically to the 17th floor.

5 Q. And did you personally review any of the  
6 correspondence?

7 A. Some, over the years, yes.

8 Q. Would you review correspondence from  
9 customers on a daily basis?

10 A. No.

11 Q. On a weekly basis?

12 A. I -- maybe.

13 Q. Okay. Is it fair to say that the employees  
14 on the 17th floor were the first point of contact  
15 for the letters that were received from customers?

16 A. Yes.

17 Q. After BLMIS received customers from  
18 letters, where did BLMIS put the letters?

19 MS. CHAITMAN: I think you said -- you  
20 said, "customers from letters."

21 MS. BROWN: Sorry. Do you want to read  
22 it back? I got --

23 (THE PREVIOUS QUESTION WAS THEN READ.)

24 MS. BROWN: Oh, I'm sorry.

25 BY MS. BROWN:

1 Q. Once BLMIS received the letters, what did  
2 it do with them after that?

3 A. It would go into a customer file.

4 Q. Okay. And where were those customer files  
5 maintained?

6 A. On the 17th floor.

7 Q. And did the employees on the 17th floor  
8 have access to those files?

9 A. Yes.

10 Q. And were they responsible for maintaining  
11 those files?

12 A. Yes.

13 Q. How often did you review the individual  
14 customer files?

15 A. Rarely.

16 Q. BLMIS sent monthly customer statements to  
17 its customers; yes?

18 A. Yes.

19 Q. Okay. And how were the monthly statements  
20 created?

21 A. They were created on the 17th floor through  
22 the -- one of the IBM computers.

23 Q. Is the IBM computer also referred to as an  
24 AS/400?

25 A. Yes.

1 Q. Who printed the statements each month?

2 A. Who printed them? You mean who ran them  
3 through -- ran the computer?

4 Q. Yes.

5 A. I'm not sure -- I'm not sure of the name of  
6 the person that sat in the room anymore.

7 Q. Okay. Was it an employee on the 17th  
8 floor?

9 A. Yes.

10 Q. You didn't personally print the statements?

11 A. No.

12 Q. Okay. So you mentioned that BLMIS used an  
13 AS/400 computer system relating to the customer  
14 accounts?

15 A. Right.

16 Q. And who put the -- who input data into the  
17 AS/400?

18 A. Who input the data? It must have come  
19 from, I would assume, either Frank or Annette.

20 Q. So the -- the data came from Frank or  
21 Annette?

22 A. Uh-huh.

23 Q. Yes?

24 A. Yeah.

25 Q. Okay. And then who would physically put it

1 into the computer?

2 A. We had a number of keypunch operators.

3 Q. Okay. And those keypunch operators worked  
4 on the 17th floor?

5 A. Yes.

6 Q. Was the AS/400 used to print the checks to  
7 customers?

8 A. I don't know. It must have been, I would  
9 assume.

10 Q. Okay. So we've discussed the customer  
11 statements, checks to customers, speaking with  
12 customers. Are those all duties that were handled  
13 by the employees on the 17th floor?

14 A. Yes.

15 Q. And we might have skipped over at the  
16 beginning, but could you tell me what your personal  
17 responsibilities were with respect to the investment  
18 advisory business?

19 A. Just supervising in general and working  
20 with Frank.

21 Q. How often did you go down to the 17th  
22 floor?

23 A. Daily.

24 Q. And what did you do when you were down  
25 there?

1 A. Answer questions or make decisions as to  
2 when we were going to put trades through on the  
3 split-strike trades.

4 Q. Who were those conversations with?

5 A. Frank.

6 Q. Is there anything else that you can think  
7 of that the employees on the 17th floor did for you?

8 A. No. Pretty much what we've covered.

9 Q. Mr. Madoff, have you met Ms. Chaitman  
10 before today?

11 A. No.

12 Q. You haven't met her in person?

13 A. Uh-uh.

14 Q. Have you communicated with her before  
15 today?

16 A. Yes.

17 Q. And how -- what was the first time you  
18 communicated with her? What did you do?

19 A. Spoke to her over the telephone.

20 Q. Did she call you, or did you call her?

21 A. Well, nobody can call me in prison. So I  
22 must have called her.

23 Q. Okay. And when was that?

24 A. I guess a couple of years ago, I believe.

25 Q. And how often have you spoken to

1 Ms. Chaitman since --

2 A. Well, I think I spoke to her twice.

3 Q. Twice in the last couple of years?

4 A. Uh-huh. Relatively short phone calls.

5 Q. Can you estimate the length?

6 A. Well, the maximum could be 15 minutes. So  
7 it was certainly less than that. It basically had  
8 to do with her trying to come in to see me.

9 Q. Okay. So -- but until today she's never  
10 come to see you?

11 A. No.

12 Q. So you discussed twice her coming to see  
13 you, but she didn't come?

14 A. She -- the prison wasn't allowing her to  
15 come down. I said I also had a conversation with  
16 one of her attorneys, Lance -- something or other, I  
17 think his name was.

18 Q. Okay. And can you tell me the approximate  
19 date of those two conversations?

20 A. No. She would be able to tell you more  
21 than I would.

22 Q. Okay. But it was in the last couple of  
23 years?

24 A. Yeah.

25 Q. And, other than those two conversations,

1 those are the only two conversations you have had  
2 with Ms. Chaitman by telephone?

3 A. That's correct.

4 Q. And, other than Lance, have you spoken to  
5 anyone else at Ms. Chaitman's firm?

6 A. I might have spoken to an Italian fellow,  
7 named Joe -- something or other. I don't know.  
8 Also a very brief conversation. All related to  
9 basically, you know, coming to see me.

10 Q. And did Joe or Lance come -- come to see  
11 you?

12 A. No.

13 Q. Have you communicated with Ms. Chaitman or  
14 anyone at her firm by e-mail?

15 A. No.

16 Q. Never?

17 A. I might have sent an e-mail again to -- to  
18 one of her employees relating to coming to see me,  
19 but, you know, then they took her off the -- I  
20 wasn't allowed any communications with her based  
21 upon the Bureau of Prisons for some reason.

22 Q. Okay. And that -- that e-mail was a couple  
23 of years ago or more recently?

24 A. Probably certainly within well over a year  
25 ago.



1 Q. And, other than that one e-mail, have you  
2 had any other e-mail communications with  
3 Ms. Chaitman or her firm?

4 A. No.

5 Q. Did you communicate with her prior to  
6 setting up today's visit?

7 A. Nothing, other than what I said that I gave  
8 you. I don't recall. No.

9 Q. I thought that you testified that you spoke  
10 to her a year ago by e-mail. Did you speak -- have  
11 any conversations by e-mail or over the phone about  
12 today's visit?

13 A. About today's visit?

14 Q. Yes.

15 A. No.

16 Q. And, other than that one e-mail that you've  
17 just described, you've had no other e-mail  
18 communications with Ms. Chaitman or anyone at her  
19 firm?

20 A. No.

21 Q. When was the first time that you heard  
22 about a dispute regarding profit withdrawals?

23 A. I guess about -- I received a letter  
24 regarding the -- oh, actually, I received some  
25 communications with -- from -- I don't know if it

1 was from her or from my brother-in-law, who is one  
2 of their -- one of her clients, relating to a book  
3 that she was writing, something of that sort.

4 Q. Okay. And when you say, "her," and, "she,"  
5 in that sentence, are you referring to Ms. Chaitman?

6 A. Uh-huh. What?

7 Q. I said -- you said, "her," and, "she." So  
8 are you referring to Ms. Chaitman --

9 A. Ms. Chaitman. Right.

10 Q. -- when you were just discussing the --

11 A. Yeah.

12 Q. -- book?

13 Okay. And who is your brother-in-law?

14 A. Bob Roman. Robert Roman.

15 Q. And how did Mr. Roman raise the profit  
16 withdrawal issue to you?

17 A. I received some copies of -- I think it was  
18 in one of the exhibits that you -- that you first  
19 showed me, about -- I'm trying to think of what it  
20 was.

21 It had to do with one of the customer --  
22 the question was basically whether or not -- I  
23 signed something, some document that she sent to me  
24 relating to profit withdrawals, whether or not we  
25 sent out checks without a -- whether a check would

1 be issued without instructions from a client,  
2 something of that sort.

3 Q. Okay. We'll get to the Declaration in a  
4 second, but just sticking with the first time that  
5 you heard about the dispute regarding profit  
6 withdrawals, who did you hear about it from?

7 A. It came in from -- I received it in the  
8 mail. It must have come from either Robert Roman,  
9 who is one of her clients, or it came from -- I  
10 don't think it came from New York. It must have  
11 come from Rob Roman.

12 Q. Okay. What did you do after you received  
13 that mailing?

14 A. I -- I signed something, basically similar  
15 to what she outlined in that letter here about  
16 profit withdrawal.

17 Q. Okay. And who was the letter from?

18 A. I don't remember. Like I said, I assumed  
19 it must have come from -- from the office of  
20 Chaitman.

21 Q. Do you have a copy of the letter?

22 A. No.

23 Q. Do you know around what date you received  
24 that letter?

25 A. Within a year ago.

1 Q. Do you recall who the letter was signed by?

2 A. Excuse me?

3 Q. Who the letter was signed by?

4 A. No.

5 Q. You mentioned the letter was accompanied by  
6 some documents. Do you recall what those documents  
7 were?

8 A. I thought it -- it might have been a  
9 reprint of one of the accounts.

10 Q. Okay. Other than the document you've just  
11 described, have you reviewed any other documents  
12 before today's deposition relating to the profit  
13 withdrawal dispute?

14 A. No.

15 MS. BROWN: I'd like to mark for the  
16 record the Declaration of Bernard L. Madoff as  
17 Madoff 12.

18 Can I have a sticker, please?

19 MS. CHAITMAN: It's actually already  
20 marked. Do you want to use the one we just  
21 marked?

22 MS. BROWN: I don't. I want to use  
23 this one.

24 MS. CHAITMAN: Okay.

25 MS. BROWN: Can I have a sticker,

1 please?

2 MS. CHAITMAN: Oh, sure.

3 MS. BROWN: Are you going to use the  
4 rest, because --

5 MS. CHAITMAN: No. You can take them.

6 MS. BROWN: Okay.

7 (MADOFF EXHIBIT 12 WAS MARKED FOR  
8 IDENTIFICATION.)

9 MS. BROWN: And I do want to note for  
10 the record the -- a similar Declaration was  
11 marked as Madoff Exhibit 2. The differences  
12 that I can tell between these two Declarations  
13 is the Declaration in Exhibit 2 is missing the  
14 line, "Attorneys for the customers listed on  
15 Exhibit A hereto." I'm sorry. Exhibit 12 is  
16 missing that line.

17 The next difference is the caption. It  
18 has a different format, and the document has a  
19 different name. The name on Madoff Exhibit 2  
20 is, "Declaration Opposing Trustee's Treatment of  
21 Profit Withdrawals." The name on Madoff  
22 Exhibit 12 is the, "Declaration of Bernard L.  
23 Madoff."

24 The other differences that I can see at  
25 this point are Madoff Exhibit 2 has a page --

1 page numbers on pages one, two and three.

2 Madoff Exhibit 12 does not have a page number on  
3 page one or two, and it has it on page three.

4 And we reserve our rights to further  
5 examine the exhibits to determine whether there  
6 are any other differences between them.

7 BY MS. BROWN:

8 Q. Mr. Madoff, I'm placing before you what's  
9 been marked as Madoff Exhibit 12.

10 MS. CHAITMAN: Do you have extra  
11 copies?

12 MS. BROWN: Oh, I'm sorry. I do.

13 MS. CHAITMAN: Thank you.

14 MS. BROWN: You're welcome.

15 THE WITNESS: Okay.

16 BY MS. BROWN:

17 Q. Mr. Madoff, who prepared this Declaration?

18 A. I believe this is the first I've seen it.

19 Q. This is the first time you've seen the  
20 Declaration?

21 A. Uh-huh.

22 Q. Do you want to turn to page three? Is that  
23 your signature on the back?

24 A. Yes.

25 Q. Okay. But looking at the first two pages,

1 that's the first time you've seen this Declaration?

2 A. You know, this looks -- this -- well, the  
3 information in it looks similar to what I just said  
4 before that -- that I received from her.

5 Q. Okay. Did you personally type up this  
6 Declaration?

7 A. Me? I?

8 Q. Yes.

9 A. No.

10 Q. How did you first receive the Declaration?

11 A. I would have had to have received it in the  
12 mail.

13 Q. In the mail. And do you know who you  
14 received it from?

15 A. Either the Chaitman office or Robert Roman.

16 Q. Do you recall the time period around when  
17 you received the Declaration?

18 A. Within a year.

19 Q. Within a year of today's date?

20 A. Uh-huh.

21 Q. Did you make any changes to the  
22 Declaration?

23 A. Not that I recall. Oh, wait a minute.  
24 I -- I crossed something out, I think. I don't  
25 remember what it was that I crossed out.

1 Q. Okay. After you crossed it out, what did  
2 you do with the document then?

3 A. I -- I must have mailed it back.

4 Q. Did you sign the document before you mailed  
5 it back?

6 A. Yes.

7 Q. Other than the -- let me back up.  
8 Do you recall what it was that you crossed  
9 out?

10 A. It was some language. I don't remember  
11 what it was, though.

12 Q. Do you remember what the language was about  
13 or the topic?

14 A. Let me see. I'll read this through. I  
15 don't remember seeing anything about Picower in  
16 this. No. I don't remember seeing number four or  
17 number three. I don't remember seeing this. I  
18 don't remember seeing that language in -- in what I  
19 signed.

20 MS. BROWN: Okay. Thank you,  
21 Mr. Madoff. I think we have to go off the  
22 record to change the tape. So --

23 THE VIDEOGRAPHER: This ends media  
24 number one in the deposition of Bernard L.  
25 Madoff. Going off the record. The time is



1 11:15.

2 (RECESS FROM 11:15 A.M. TO 11:17 A.M.)

3 THE VIDEOGRAPHER: This begins media  
4 number two in the deposition of Bernard L.  
5 Madoff. The time is 11:17. We are on the  
6 record.

7 BY MS. BROWN:

8 Q. Mr. Madoff, if we could just go through the  
9 Declaration paragraph by paragraph. Do you  
10 recall -- before you signed the Declaration  
11 approximately a year ago, do you recall seeing  
12 paragraph one?

13 A. Yes.

14 Q. Okay. And what were you informed about the  
15 dispute that's described in paragraph one?

16 A. Basically that I -- I guess that the --  
17 there was some claims that the customer did not  
18 receive the checks that matched the -- the profit  
19 withdrawals.

20 Q. Okay. And you -- who were you informed  
21 about that by?

22 A. What -- by this document.

23 Q. Okay. When you received the Declaration?

24 A. Yeah.

25 Q. Okay. Okay. And, Mr. Madoff, you

1 indicated that you sent -- I'm sorry. You struck  
2 out a paragraph before you sent it back; correct?

3 A. Uh-huh.

4 Q. Okay. And did you make any other edits  
5 that you can recall to the Declaration?

6 A. No.

7 Q. Okay. And, other than mailing it back, did  
8 you have any discussions with Ms. Chaitman --

9 A. No.

10 Q. -- about the Declaration?

11 A. No, because I couldn't reach her, if I  
12 wanted to.

13 Q. Did you have any discussions with anyone  
14 else --

15 A. Uh-uh.

16 Q. -- about the Declaration?

17 A. No.

18 Q. After you sent the Declaration back with  
19 the changes that you've indicated, did you receive  
20 any other drafts of the Declaration?

21 A. No.

22 Q. Did you see any other --

23 A. Actually -- wait a minute. I'm not -- I'm  
24 not sure whether I received something -- you know,  
25 if I signed -- this is clearly my signature. All

1 right?

2 Q. Okay.

3 A. Now, I wouldn't have -- either I -- in  
4 other words, I wouldn't have signed something if --  
5 if I crossed something out, and it wasn't here, you  
6 know.

7 Q. Uh-huh.

8 A. So I must have received something with the  
9 same information -- information. I'm sort of  
10 confused --

11 Q. Okay.

12 A. -- about this. It wasn't -- it was nothing  
13 relevant or nothing major that I crossed out. It  
14 was just something that -- I crossed it out for some  
15 reason. I don't remember what it was.

16 I remember, as far as I knew, the only  
17 thing that was important was the question of whether  
18 or not we issued checks --

19 Q. Uh-huh.

20 A. -- without having instructions from the  
21 client.

22 Q. Okay. Okay. So in paragraph one it  
23 states, "I have been informed that the trustee,  
24 Irving Picard, has claimed that my customers  
25 received payments that the customers dispute they

1 received."

2 A. Right.

3 Q. And did you have any information about what  
4 Ms. Chaitman's position was in this dispute?

5 A. I -- I would assume that -- that that was  
6 the case involved -- the dispute involved whether or  
7 not, you know, checks were sent out to a client  
8 without having instructions.

9 Q. Okay.

10 A. That's it.

11 Q. Okay. Did you have any specific  
12 communications about Ms. Chaitman's position?

13 A. No, other than what was -- what was in the  
14 document.

15 Q. And the document you're referring to is the  
16 Declaration --

17 A. Right.

18 Q. -- Madoff Exhibit 12?

19 And, just to confirm, Madoff Exhibit 12 was  
20 not created by you?

21 A. No.

22 Q. And it was not prepared by you?

23 A. No.

24 Q. Were you told why your testimony was being  
25 sought in this dispute?

1 A. Because I was the one -- I would know  
2 whether or not this was a true fact --

3 Q. Uh-huh.

4 A. -- true statement or not.

5 Q. Were you offered anything in exchange for  
6 your Declaration?

7 A. No.

8 Q. Okay. Any payments?

9 A. No.

10 Q. Anything of value?

11 A. No.

12 Q. Prior to reviewing the Declaration that you  
13 received in the mail did you review any other  
14 documents related to the profit withdrawal dispute?

15 A. Not that I recall.

16 Q. And before today's deposition, putting  
17 aside the documents that we've looked at here today,  
18 have you reviewed any documents relating to the  
19 profit withdrawal dispute?

20 A. No.

21 MS. BROWN: Okay. I'd like to -- I'll  
22 mark it as Madoff Exhibit 13, but I'll also note  
23 for the record this exhibit bears the Bates --  
24 I'm sorry -- the Exhibit Number Trustee 36, and  
25 it has a Bates number of MADTBB01988418.

1 (MADOFF EXHIBIT 13 WAS MARKED FOR  
2 IDENTIFICATION.)

3 BY MS. BROWN:

4 Q. Mr. Madoff, I'm placing before you what's  
5 been marked as Madoff Exhibit 13.

6 A. Okay.

7 Q. Do you recognize this document?

8 A. I can't read a thing that's on it. Oh,  
9 yeah. All right. This looks like something from  
10 Annette's department basically. You know, how they  
11 opened up an account folder.

12 Q. Okay. Just so the record is clear, can you  
13 tell me what page you were looking at when you were  
14 just talking? You can just tell me which page of  
15 the document.

16 A. Page -- oh.

17 Q. You can tell me the --

18 A. Two.

19 Q. Two?

20 A. The second page.

21 MS. BROWN: Okay. Let the record  
22 reflect the witness is referring to page  
23 MADTBB01988419.

24 BY MS. BROWN:

25 Q. Just sticking with this page for a second,

1 Mr. Madoff, do you -- are you familiar with this  
2 document, type of document?

3 A. I'm -- yeah.

4 Q. Okay. And what is it?

5 A. It looks like it's various codes as to how  
6 an account would be handled.

7 Q. Okay. And is this a document that you  
8 worked with on a daily --

9 A. No.

10 Q. -- basis?

11 A. No.

12 Q. Okay. And who worked with these -- this  
13 type of document?

14 A. Annette and her department.

15 Q. And directing your attention down to the  
16 bottom portion of the page, where it says, "Profits,  
17 dividends, interest."

18 A. Uh-huh.

19 Q. "Note: Send" -- "S equals send. R equals  
20 reinvest." What does that mean to you?

21 A. It means what the customer had instructed  
22 they wanted to receive, whether they wanted to  
23 receive the dividends in the account.

24 Q. Okay.

25 A. Like I said, I've never really seen this

1 before, but --

2 MS. BROWN: Okay. Thank you. You can  
3 put that down.

4 I'd also like to mark Madoff  
5 Exhibit 14, and, note for the record, this  
6 document also bears the Trustee Exhibit 44, and  
7 it has a Bates number of AMF00154125.

8 (MADOFF EXHIBIT 14 WAS MARKED FOR  
9 IDENTIFICATION.)

10 BY MS. BROWN:

11 Q. And, Mr. Madoff, when you're ready, I have  
12 a question --

13 A. Okay.

14 Q. -- on a specific page.

15 A. Uh-huh.

16 Q. But you're free to look through the  
17 document.

18 A. No. Go ahead.

19 Q. Okay. The page that I want to ask you  
20 about ends in -- I'm sorry. I had it. 153 is the  
21 last three digits of the page.

22 A. Okay.

23 Q. Okay. Mr. Madoff, do you recognize this  
24 document?

25 A. Uh-huh.



1 Q. And can you tell us what it is?

2 A. Yeah. What --

3 Q. What is it?

4 A. Oh, it's a customer agreement.

5 Q. Okay. And is this a form that was used at  
6 BLMIS?

7 A. Yes.

8 Q. Okay. And if I could turn your -- direct  
9 your attention to paragraph 16, could you read that  
10 paragraph for me into the record?

11 A. "Confirmations and statements.  
12 Confirmations of transactions and statements for the  
13 customer's account shall be binding upon the  
14 customer if the customer does not object, in  
15 writing, within ten days after receipt by the  
16 customer."

17 "Notice or other communications including  
18 margin and maintenance calls delivered or mailed to  
19 the address given below shall, until the broker has  
20 received notice in writing of a different address,  
21 be deemed to have been personally delivered to the  
22 customer whether actually received or not."

23 Q. Okay. Thank you.

24 And, Mr. Madoff, is that paragraph form  
25 language in the customer agreement that was used by

1 BLMIS?

2 A. Uh-huh. Yes.

3 Q. Okay. And does that paragraph require a  
4 customer to object to transactions in their account?

5 A. Yes.

6 MS. BROWN: I have no further  
7 questions.

8 MS. CHAITMAN: Okay. I'm just going to  
9 take a five-minute break.

10 THE WITNESS: Going --

11 MS. CHAITMAN: Do you --

12 THE VIDEOGRAPHER: Going --

13 MS. CHAITMAN: Do you need anything to  
14 eat?

15 THE VIDEOGRAPHER: Going off the  
16 record. The time is 11:28.

17 (RECESS FROM 11:28 A.M. TO 11:47 A.M.)

18 THE VIDEOGRAPHER: Back on the record.  
19 The time is 11:47.

20 REDIRECT EXAMINATION BY COUNSEL FOR CUSTOMERS  
21 BY MS. CHAITMAN:

22 Q. Mr. Madoff, do you -- do you recall, now  
23 that you've been questioned about it, that I sent  
24 you a form of Declaration, and you crossed out  
25 something in it, and then sent it back to me?

1 A. Yes.

2 Q. And then do you remember I sent you a clean  
3 copy with the crossed-out material deleted?

4 A. Okay.

5 MS. BROWN: Objection.

6 BY MS. CHAITMAN:

7 Q. You remember that?

8 A. I must have, because I wouldn't have signed  
9 something that wasn't in its complete form.

10 Q. Okay. And, in fact, you had signed the  
11 Declaration, but crossed out a paragraph --

12 A. Yes.

13 Q. -- and sent it to me?

14 A. Yes.

15 Q. And then didn't I resend it to you,  
16 unsigned, with that crossed-out paragraph  
17 eliminated?

18 MS. BROWN: Objection.

19 THE WITNESS: I would assume so.

20 BY MS. CHAITMAN:

21 Q. Okay. Because you -- there's no question  
22 that you signed the document --

23 A. Yes.

24 Q. -- we've marked as Exhibit 2?

25 And it was in this form when you signed it;

1 right?

2 MS. BROWN: Objection.

3 THE WITNESS: Excuse me. I must have,  
4 but I -- I tell you, I don't remember. My mind  
5 is not as clear as it should be.

6 BY MS. CHAITMAN:

7 Q. Okay. Looking at Exhibit 14, and if you  
8 want, I can just hold it up to you. I'm looking at  
9 the second page, which ends in Bates number 54126.

10 Do you see on this form -- this is for  
11 Aaron Blecker. Do you see on this form, it has S's  
12 for profits and dividends and interest, and then  
13 it's crossed out?

14 A. Okay. Yes.

15 Q. Do you know who would have crossed this  
16 out?

17 A. No. I would assume it had to be someone in  
18 the operations department.

19 Q. Okay. And was there anyone who would check  
20 the work of someone in the operations department to  
21 make sure they didn't make a mistake?

22 A. Yes. Probably Annette Bongiorno.

23 Q. Okay. So she would do it?

24 A. Uh-huh.

25 Q. Okay. And if you wanted to know what the

1 customer's instructions were, is it fair to say  
2 you'd have to look at the customer file to see what  
3 the letter from the customer said?

4 MS. BROWN: Objection.

5 THE WITNESS: I would assume so.

6 BY MS. CHAITMAN:

7 Q. Because this document, the second page of  
8 Exhibit 14, this is not signed by the customer;  
9 right?

10 A. No, no.

11 Q. Okay. And, looking at Exhibit 13, on the  
12 third page, this is also a document, which is not  
13 signed by the customer; right?

14 A. I -- I don't -- I don't believe so. This  
15 looks all like internal documents.

16 Q. Okay. And, again, if you wanted to know  
17 what the customer's request was, you'd have to look  
18 in the customer file for a letter from the customer;  
19 isn't that true?

20 A. Correct.

21 MS. BROWN: Objection.

22 MS. CHAITMAN: Okay. I have nothing  
23 further.

24 MS. BROWN: I'm sorry. I have nothing  
25 further. We can go off the record. I forgot

1           you were there.

2                       THE VIDEOGRAPHER: We're off the record  
3           in the deposition of Bernard L. Madoff. The  
4           number of media used is two. The time is 11:50.

5                       (SIGNATURE WAIVED.)

6                       (DEPOSITION CONCLUDED AT 11:50 A.M.)  
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1 STATE OF NORTH CAROLINA

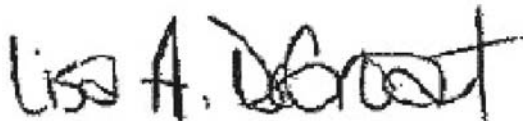
2 COUNTY OF PERSON

3  
4 CERTIFICATE OF TRANSCRIPT

5  
6 I, Lisa A. DeGroat, a Court Reporter and  
7 Notary Public in and for the aforesaid county and  
8 state, do hereby certify that the foregoing  
9 deposition of BERNARD L. MADOFF, was taken by me and  
10 reduced to typewriting under my direction; and the  
11 transcript is a true record of the testimony given  
12 by the witness.

13 I further certify that I am neither attorney  
14 or counsel for, nor related to or employed by any  
15 attorney or counsel employed by the parties hereto  
16 or financially interested in the action.

17 This the 16th day of June, 2016.

18  
19  
20   
21

22  
23 LISA A. DeGROAT

Registered Professional Reporter

24 Notary Public #19952760001

Expiration Date: December 8, 2020

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